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CIVIL OFFICE

AND

POLITICAL ETHICS,

WITH AN APPENDIX,

CONTAINING FAMILIAR LAW RELATING TO HUSBAND AND WIFE, PARENT AND CHILD, GUARDIAN AND WARD, WILLS, EXECUTORS AND ADMINISTRATORS, WITNESSES, JURORS, AND ARBITRATORS.

FOR THE USE OF CITIZENS AND SCHOOLS,

BY E. P. HURLBUT.

NEW YORK:

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PREFACE.

SEVERAL years ago the Superintendent of Common Schools of this State, recommended as subjects of study, the Constitution of our Government, and the laws relative to the powers and duties of public officers. This recommendation was accompanied by reasons of the most conclusive character; and the friends of common education were disposed to adopt the salutary suggestions of the Superintendent. A work in furtherance of this design seemed to be called for by public sentiment, and the writer occupied a few hours of leisure from professional engagements, in preparing that portion of the present volume, relating to State, County, and Town Officers, and a portion of the Appendix. With the execution of that work the Superintendent was pleased to express his satisfaction, and recommended its introduction into the schools of this State.

Since that period, the standard of common education has been constantly rising, and an increased interest has been manifested by the public in elevating the character of our elementary schools. The Superintendent of Common Schools, seconded by the Regents of the University, has steadfastly adhered to his original recommendation, and enforced it by additional arguments, and it is believed that the whole people are convinced of the importance of its adoption.

A demand has thus been created for books of the character alluded to, but no work has fallen under the notice of the writer which is devoted to the same objects as the present, and he ventures to hope from the favourable reception of a former edition, that the present, with its amendments and additions will not fail altogether, of obtaining favour with the public.

The additions are chiefly composed of an essay upon the inequality of men by nature, and their equality of rights under government—the chief Executive and Judicial Officers of the United States—a treatise upon Political Ethics, showing the duties of the citizens of this Republic—and the law relating to witnesses, jurors, and arbitrators.

In presenting to the youth of the country a code of political morals, the author has felt serious inconvenience in being confined to the limits of this essay. The theme demands a volume of itself, and little more has been attempted, than to present a few leading principles, in such form as was deemed most likely to gain the reader's attention. If conclusions which may fairly be drawn from the spirit of our institutions are stated as truisms, without being accompanied by the reasons which support them, the writer's apology for the omission is the want of space. He believes he has set forth the leading principles which are the basis of our constitution. The doctrines of this essay are republican, if they are wrong, then are our political institutions, all wrong, and self-government is impracticable.

If the unparallelled prosperity of our country, and of all classes of our citizens has caused some to forget the first principles of Republicanism, as there is reason to fear is the case, it may be well to teach them to the rising generation in the school room. Our forefathers enjoyed different opportunities for acquiring these principles; they learned them in adversity and war, and gained a practical knowledge of them which they never could forget. The present generation has been too fortunate and happy in the possession of

their great political treasure to appreciate its value. In order to preserve our institutions we must first form a proper estimate of their value, and then live up to the spirit of them.

A nation can no more depart from the spirit and principles of its constitution, without decay or ruin, than an individual can violate with impunity, the laws of health. Both nations, and individuals must act in harmony with the laws of their organization, in order to secure length of days and happiness.

National sentiment must conform to the spirit of our constitution, or its objects can never be attained. The mind of each citizen ought to be imbued with the principles of free government. Every youth in the country should be *educated a Republican.* The domestic fireside and the school room ought to be the nurseries of free principles. Sentiments of patriotism ought not to be reserved for particular days and occasions; they are required for *every day use.* It is fit that more than *one day* in the year should be devoted to a review of the great principles and duties, which are involved in self-government. The moral duties of a republican have been too much neglected. They have not been taught, and it is feared have scarcely been *felt* by some members of the community.

There is imminent danger of a departure from first principles. As our country advances in age and wealth, that danger increases. We easily forget duties which impose a burthen upon us, and trample down right when it is an obstacle to our desires. Already the million are not so much regarded as the few, and our laws have favoured speculation and monopoly, rather than legitimate industry and fair trade. In the absence of orders of nobility, wealth has been set up by some as the standard of merit, and an undue stimulus for its acquisition has been diffused throughout society. We probably have not in fact forgotten that our constitution is based upon equality of rights, and that no distinctions can be acknowledged among us, except those of a mental and

moral character. But we have neglected to *practice* upon the great precepts of the constitution.

Let then every youth be instructed in these precepts—let them become as household words to him—with the first lessons of virtue, let them be instilled into his mind, and engrafted upon the moral constitution of his nature. The fruit of this culture will be garnered in the ballot-box, and thence distributed through all the walks of society, and the various departments of government.

New York, Oct. 1839.

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CIVIL OFFICERS.

OF GOVERNMENT AND LAW.

Man in a state of nature was subject to no human law, and whatever absolute rights he possessed in that condition were defended by his individual efforts, or lost by the overbearing strength of an adversary. From aggression there was no appeal but to arms, and in this appeal physical force and not justice decided the controversy. Man, therefore, found himself obliged to resort to society, to which he was adapted by the constitution of his nature, and he came into it, surrendering a portion of his natural liberty, as the price of that protection and assistance which is afforded him under such government as he himself should choose.

Government, therefore, results from this agreement of societies of men, united together for their mutual safety and advantage.

These societies when united for this purpose, are *nations* —have a moral being and a will—are capable of negociating treaties and forming alliances with other nations—and of making laws binding and obligatory upon each individual. And every nation that thus governs itself, without dependance upon a foreign power, is a sovereign state.

Kinds of Government. There are three kinds of government :—

1. *Democracy*, which is a popular government, and where the body of the nation, the people, retain and exercise the power of the state;

2. *Aristocracy*, where the power of the state is vested in a few select citizens;

3. *Monarchy*, where the power of the state is confided to a single person.

These three kinds of government may be variously combined, and in this modification a government may in some degree partake of the nature of all of these. For instance; the government of Great Britain is vested in a King, who represents the monarchical branch—and a Parliament consisting of two houses—a house of Lords, and a house of Commons. The Lords make up the Aristocracy of the government—their titles, honors and fortunes being hereditary, or derived by descent from their ancestors:—while the members of the house of Commons are individuals selected by their fellow subjects, to represent their interests and protect their rights—and being chosen by the people on account of their merit and talents, they present a democratic, or rather republican feature in the British Government.

But it has at length become settled that kings are not only unnecessary, but worse than useless—that lords may be conveniently dispensed with—*and that, that form of government only is worthy of being cherished, which secures to mankind the greatest portion of rational liberty, upon the securest basis, and at the least expense.* Such a government is ours—which is a *Republic*—being a happy combination of the popular forms of government unprecedented in the history of nations. It proceeds as will be seen upon the principles of the *representative system*, and thus avoids the danger and tumult of a pure democracy—while the people instead of becoming subservient to kings and nobles, sincerely reverence the constitution and the laws—whose language and spirit ensure equal rights and protection to all.

To the question "which was the most perfect popular government?"—Solon one of the sages of Greece gave this answer:—"*where an injury done to the meanest citizen is an insult upon the whole constitution.*"

This answer was remarkable, when we consider the remote period of antiquity in which it was delivered—but still it may be regarded as presenting scarcely more than *one feature* of a perfect government. A better idea of the principles which form the true basis of a free government may be derived from the declaration of Independence adopted by the delegates of the United States in Congress July 4. 1776—and also from a "declaration of the Rights of Man and of citizens" adopted by the French Nation in 1793, from which are subjoined the following extracts.

In the American Declaration it is said—"we hold these truths to be self-evident, that all men are created equal—that they are endowed by their Creator with certain unalienable rights—that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed: that whenever any form of government becomes destructive of those ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

The following extracts are from the Declaration of the French People.

"The design of society is common happiness—all men are by nature equal—and in the sight of the law.

"All citizens are equally admissible to public employments; free people acknowledge no other motives of preference in their elections than virtue and talents.

"Liberty is that power which belongs to man of doing every thing which does not hurt the rights of another; its principle is nature; its rule justice; its protection the law;

its moral limits are defined by this sentence—*do not unto another what thou wouldst not wish done to thyself.*

"Safety consists in the protection granted by society to each of its members, for the preservation of his person, his rights, and his property.

"The law ought to protect the liberty of the public, and of each individual, against the oppression of those who govern.

"The right of property is that right which belongs to every citizen of enjoying according to his pleasure his goods, his revenues, the fruits of his labor and industry, and of disposing according to his pleasure, of the same.

"No contribution can be enacted, but for general utility. All citizens have a right to have a share in fixing the contributions, to watch over the use made of them, and to require an account of their expenditure.

"Instruction is the want of all. Society ought to favor with all its power, the progress of public reason, and to place the means of instruction within the reach of every citizen.

"Public functions are essentially temporary. They cannot be considered as distinctions, nor as rewards, but as *duties.*

"Oppression is exercised against the social body, when even *only one of its members* is oppressed—and against each member, when the *social body* is oppressed.

"When government violates the rights of the people, insurrection is to the people, and to every portion of the people, the most sacred of rights, and the most indispensible of duties."

LAW, in its most comprehensive sense signifies, a rule of action.

Municipal Law, or the laws of a state or nation, has been thus defined: "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong."

Although this definition has been by some thought objectionable, yet a substitute is not attempted; but in popular governments the law of the land might be defined—*A rule of civil action, adopted by general consent, and obligatory upon each individual of the state.*

"The law is the free and solemn expression of the general will, and is the same for all, both in protecting and in punishing; it cannot command but that which is just and useful to society; it cannot forbid, but that which is hurtful to the same." And it "ought not to decree any punishments, but such as are strictly and evidently necessary: the punishments ought to be proportioned to the crimes and useful to society."

Demosthenes thus speaks of law: "The design and object of laws are, to ascertain what is just, honorable and expedient, and when that is discovered, it is proclaimed as a general ordinance equal and impartial to all. This is the origin of law, which for various reasons, all are under obligations to obey; it is the resolution of wise men, the correction of every offence, and the general compact of the state, to live in conformity with which, is the duty of every individual in society."

QUESTIONS ON THE PRECEDING.

What has been said of Man in a state of nature?
What is government?
What is a Sovereign State?
Can you define a Democracy?
Can you define an Aristocracy?
Can you define a Monarchy?
How may these forms of government be combined?
What form of government is most worthy of being cherished?
What kind of government is our own?
What was the question put to, and the answer of, Solon?
What truths are said to be self-evident by our declaration of Independance?
What is the design of society?
What motive of preference have free people in their elections?

What is said of Liberty?
What does safety consist in?
What is the Right of Property?
What is said of public functions?
What is said of oppression?
When does Insurrection become a right and duty?
What is law—define it?

OF MEN'S DIFFERENT NATURAL ENDOWMENTS AND POLITICAL EQUALITY.

Men are endowed by nature with different capacities, both mental and moral. It is true that the sentiments and faculties proper to man, are distributed to each member of the human family, but in different degrees of power and activity. This is the great cause of the diversity in human character. The natural disparity which thus exists among men, may be increased or diminished to a certain extent by the circumstances of country and climate, the training and associations of youth, and the pursuits of life, but still the natural differences instituted among men by the Creator, will always exercise a controlling influence in forming the character of each individual. This influence is not however *irresistable*—no sane man is inevitably compelled by the constitution of his nature either to the right or wrong—the bent of his inclination will be to one or the other—but this inclination is not beyond his own control.

A candid and intelligent observer of mankind, will readily perceive the great natural diversity existing among men—a difference as great and as various in their mental and moral natures, as in their physical structures. In men's intellectual character, how vast the difference. One is a poet from his infancy—another a painter—another an arithmetician—and yet turn either of these gifted children from the channel of their favorite studies, and they sink into mediocrity. Men's moral natures differ no less. In one is

found a spontaneous and natural philanthropy—while another is addicted from his earliest youth to acts of cruelty and revenge. In one man a sense of justice and rectitude seems to control all his actions—while another adopts expediency as his rule of right, and laughs at those acts of injustice and wrong which do not affect his own interests.

The sentiments of religious reverence, of faith and hope, are naturally powerful and all-controlling in the minds of some men, while others devoid of any strong feelings of the kind, seldom if ever manifest them. The miser's love of acquisition is the result of his mental organization—and he is as much under the influence of instinct in this respect, as if the powers of reason were denied him. It is unnecessary to multiply instances, since this subject properly belongs to a different branch of knowledge than it is proposed to embrace in this work.

This difference of natural endowment among men, being the order of nature, requires attention, when the rights and duties of man in society are considered. And it may well be assumed that the natural superiority of one man over another, being the gift of nature, is a right, which is not to be surrendered in society. The law of nature is here paramount. If the superior endowment be of physical strength, the law cannot restrain its healthful exercise, nor deny to the possessor the advantage it ensures.

If the endowment be of courage—the law will not deny to bravery, the honors which it wins. If the superiority of a man arises from his high moral attributes, truth, benevolence, religion and justice, the high position which these confer, must be allowed to the individual, as well in society, as in a state of nature.

The poet must be allowed his tribute of praise—the mathematician the honors of discovery—the good man, the esteem and admiration of his fellow citizens—so that whatever may be the legitimate fruits of one's natural endowments, to these by the very law of man's nature he is en-

titled—unless the good of society cannot be secured without modifying or curtailing his enjoyment of them.

Now it will be readily seen, that men come into society, in an unequal condition—and that the superiors cannot be deprived of their position—or if they could, it would be a violation of their right to attempt it.

A man coming into society with great physical, moral, or intellectual power, takes his position accordingly. If these tend to the acquisition of wealth—he is entitled to it—to secure fame and honor, these are his right—if they make him truly great, he is entitled to the tribute of respect and admiration from those beneath him. Society cannot deprive the strong man of the benefit of his strength, nor the wise man of his wisdom. The good man is not to be degraded to the standard of the vile—nor the mean man exalted, without reference to his character. The paramount good of society requires no such levelling operation. The law of nature, the will of the Deity forbid it. The feeble will naturally respect the strong, the ignorant the enlightened—the bad even will pay a tribute to virtue—the good and great will be loved and reverenced—and no arbitrary rules of society, no form of government, can ever overthrow the constitution of man.

It results from these premises, that *social equality* cannot exist. The distinctions of nature enter into society. The good and the bad will have their separate associations. The enlightened and the ignorant will have their's. The man of sentiment cannot deeply sympathise with one devoid of it. The poet feels little relish for the society of the mathematician—the man of sense shuns the fool—the proud man the vain—the just the unjust, and the benevolent the mean. There is no natural sympathy between them—and an intimate association does violence to the natures of both. Men's pursuits, tastes and sympathies, vary, and these create their associations, in society. If a man's sense of justice make him revolt at intimate association with a knave,

so his refined taste (which is but another sentiment) may make him avoid intercourse with the illiterate and vulgar.—To compel either to act against the strong bent of his inclination in this respect, would be no less tyrannical, than to compel the chaste to associate with the wanton.

The generous, the brave, the witty, and the enlightened, must be permitted to gratify their peculiar tastes, in their intercourse in society—must be allowed to meet their like, with the same freedom, which is conceded to the mean and depraved, who herd together. No wrong can result from this; and the happiness of the human family is far from being improved, by attempting to level the distinctions which exist among men by the constitution of their natures.

Man's happiness in this, as in every other case, depends upon his observance of natural laws. When these are understood and practised upon, envy of the truly good and great will cease; at least, there will be no constitutional and radical attempts at depreciating them in the machinery of government. Men differ at the starting point, and they will also differ at the termination of their career in life. It is folly to murmur at the result, unless the laws of man and not the laws of nature cause the difference. Human laws may, and often do, tend to produce artificial and unjust distinctions in society. Let these be abolished, and let nature and enlightened education work out the destiny of man. Give fair play to these, and no one will have occasion to murmur at the result.

Suppose the modern wild dream of equality could be realized to-day.—Let all men start afresh in life, alike destitute of property, education or position in society—a few years, perhaps months, would present nearly the same inequality as exists at present in the United States. The difference in natural endowments would soon produce the distinctions of learned and unlearned—wise and foolish—rich and poor—good and bad. If property were equally

distributed to-day, is it doubted, that the long-sightedness of one man, the miserly disposition of another, and the good fortune of a third, would very soon render the blessing of wealth as unequally distributed as at present?

We may safely conclude, that in the absence of natural, men can never attain to *social equality.*

What then is meant by the declaration—"*that all men are created equal?*" I answer—*political equality—or an equality of rights.* The expression in the declarations of the American and French people, concerning men's equality, relates only to their political rights under government.

It means no more than this—that as regards "life, liberty, and the pursuit of happiness"—all men are to be left by law upon an equal footing. The life of one man in the eye of the law, is as sacred as another—if a humble man be unjustly deprived of life, the law inflicts the same punishment upon the offender, as if he had slain the most distinguished man in the nation.

The same equal protection is afforded to the right of property. The poor man's claim is determined by the same law as the rich man's. One man cannot be restrained of his liberty, by a law which would not, under the same circumstances, restrain another—and in the general pursuit of happiness, all men are entitled to the same legal privileges and protection. All men are equally permitted by law, to make efforts to rise from the humblest condition. The law presents no barrier to the correct ambition of the citizen. The humblest man may aspire to office under government, or to position in society. A president may spring from the farm house or the mechanic's shop, if his natural endowments and intellectual acquirements, shall render him equal to that ambition. There are no *arbitrary* distinctions among us—we admit no nobility, but that of nature. Thus our laws have left men as equal as nature made them. But we have not attempted to level that natural aristocracy of virtue and talents, which will exist under any laws, however

free or arbitrary. We have never declared that there is no inequality in men's natural capacities—which would have been as absurd, as to have declared all men of equal height and weight—We have left nature to struggle on—the weak—the strong—the beautiful and the good, as we found them—we have emboldened all our citizens to run the race of ambition—have invited natural goodness and excellence to rise higher—those less endowed, still to exert their powers—we have thrown off the barriers which arbitrary laws interpose against the ascendancy of virtue and talents—but we have never attempted to abolish the distinctions between magnanimity and meanness—between genius and excellence on the one hand, and mental and moral debasement on the other.

We look to nature to present us the great and noble of our race—and we gladly yield to them the places which she has destined them to fill.

OF THE FEDERAL GOVERNMENT OF THE UNITED STATES.

The original states of the confederation, being thirteen in number, were once British Colonies, and as such, the government of Great Britain sought to extend its laws over them, and to consider them bound thereby, whether they consented or not—claimed the right of taxing them, without their being represented in the British Parliament, and finally, by a most arbitrary and unjust exercise of power, aroused the colonies to opposition and resistance. Extensive political associations were formed in various parts of the country, which ensured concert of action, and finally resulted in the organization of a general congress, composed of delegates from each colony.

In this congress, the relation in which the colonies stood toward Great Britain, and the respective rights of each,

were discussed by the most enlightened and patriotic men of the country—and happily for us the doctrine of *independence* prevailed. A committee appointed for that purpose, reported a "Declaration of Independence," (drawn up by Mr. Jefferson one of the committee) which was finally adopted by the congress, July 4th 1776; and by which it was declared that "these united colonies are, and of right ought to be *free and independent states;* that they are absolved from all allegiance to the British Crown, and that all connection between them and the State of Great Britain, is, and ought to be totally dissolved; that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things, which independent States may of right do."

The States by their delegates in congress, on the 9th of July 1778 entered into articles, by which they confederated together in their sovereign capacity, under the style of "The United States of America." By these articles the States entered into a firm league of friendship with each other "for their common defence, the security of their liberties, and their mutual and general welfare—binding themselves to assist each other against all force offered to, or attacks made upon them or any of them, on account of religion, sovereignty, trade, or any other pretence whatever."

Each State retained its "sovereignty, freedom, and independence; and every power, jurisdiction, and right" which was not by the terms of the confederation expressly delegated to the United States; the powers of the general government were defined, and under this confederation these powers were exercised in full force, until March 4. 1789, when the constitution of the United States took effect.

By this constitution certain powers are conferred upon the general government, and of course are relinquished by the States—but it is provided by an amendment, that the powers not delegated to the United States by the constitu-

tion, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

General La Fayette in delivering a sentiment regarding the constitution of the United States, pronounced it "*a happy compound of state rights, and federal energy.*"

In construing the powers of the federal government, two contending political parties have found grounds of difference, which have kept up a wall of division between them ever since the organization of our government; the one being jealous of the powers of the federal government lest the sovereignty of the States individually might be impaired or lost, contrary to the design of the confederation, and thus the government become *consolidated;* whilst the other professes not to desire this latter result, but contends for a liberal construction of the powers of the general government, and fears *disunion.* Both of these parties have ever had able and numerous advocates and adherents, but have both at times advocated the *extremes* of their respective doctrines; still it is supposed that in sentiment, both desire that the general government should exercise all its legitimate powers, and thus effect every object of the union, and that the sovereignty of the States may remain as unimpaired as the nature of the confederacy admits. The difference therefore lies in the *means* adopted, to arrive at the same end.

QUESTIONS ON THE PRECEDING.

How many States entered into the original confederation?
What caused them to oppose the government of Great Britain?
Of whom was the first congress composed?
What is said of the Declaration of Independence?
By whom was it written, and what was its import?
When, and by what body were the Articles of confederation entered into?
What was the import of these Articles?
What was the style of the confederation?

When did the constitution of the U. S. take effect?
What was the observation of La Fayette concerning it?
What are the views of the contending political parties?

OF THE POWERS OF THE FEDERAL GOVERNMENT.

The powers of the Federal Government may be divided into *Executive*, *Legislative*, and *Judicial;* and these are each to be accepted in a limited sense, and as defined by the constitution of the United States.

OF THE EXECUTIVE POWER.

The executive power of the United States is vested in a president, who is chosen by the electors of each State appointed in such manner as the legislature of each State directs by law; and these electors are equal in number to the whole number of Senators and Representatives to which the State is entitled in congress.

The President holds his office for four years, but may be sooner removed by impeachment for, or conviction of treason, bribery, or other high crimes or misdemeanors.

Qualifications. The President must be a natural born citizen, of the age of thirty-five years, and must have been fourteen years a resident of the United States.

Chief powers and duties. He is Commander in chief of the army and navy of the United States, and also of the militia of the several States, when in the actual service of the United States.

He grants reprieves and pardons, for offences against the United States (except in cases of impeachment.) With the advice and consent of the Senate, he has power to make treaties, to appoint ambassadors, public ministers and consuls, judges of the supreme court, and other officers of the United States, whose mode of appointment is not otherwise

prescribed by law. He fills vacancies that happen during a recess of the Senate, by granting commissions that expire at the end of the next session; and he may convene both or either of the houses of congress on extraordinary occasions. No bill, though it may have passed both houses of congress becomes a law, until presented to the president; and if he approves, he signs it, and this done it becomes a law: if he do not approve, he returns it with his objections, to the house where it originated. The house then proceeds to reconsider it, and if the bill is approved by two-thirds of both houses, it becomes a law, without the signature of the president. When the president thus returns a bill with his objections to its passage, he is said to put his *veto* upon it. It is the duty of the president to inform congress from time to time, of the state of the union, and to recommend such measures of public utility as he deems expedient; to see that the laws are faithfully executed; to commission the officers of the United States, and to receive ambassadors and other public ministers from foreign powers.

The salary of the president is $25,000 per annum.

The vice President, is elected in the same manner, and for the same term, and he is ineligible without the same qualifications as the president.

Chief powers &c. He is President of the Senate of the United States, but is not entitled to vote, unless that body is equally divided.

In case the president is removed, or dies, resigns, or becomes unable to discharge the powers and duties of his office, they devolve upon the vice president, who has in that event the same powers and duties as the president.

The salary of the vice President is $5,000 per annum.

QUESTIONS ON THE PRECEDING.

How are the powers of the Federal Government divided?

How are these powers to be accepted?

In whom is the executive power vested?
How is the President chosen?
How long does he hold his office?
How, and for what causes may he be removed from office?
What are the qualifications of the President?
Can you enumerate his chief powers and duties?
What is meant by the President's putting his *veto* on a bill?
What is the President's salary?
How is the Vice President chosen?
What are his qualifications?
Can you enumerate his powers and duties?
When do the powers of the President devolve upon him?
What is the salary of the Vice President?

OF THE SECRETARY OF STATE.

The Secretary of State, is nominated by the President and appointed by him, by and with the advice and consent of the Senate. He holds his office during the pleasure of the power appointing him. He is subject to be removed on impeachment for, or conviction of treason, bribery, or other high crimes and misdemeanors.

Chief powers and duties. He conducts the business of the Department of State, under the direction of the President; and performs such duties, as from time to time are enjoined upon him by law, or entrusted to him by the President. He forwards commissions and instructions to the public ministers and consuls of the United States, and corresponds and negotiates, with public ministers from foreign States and Princes. He has the custody of all books, records, and papers relating to our affairs with foreign nations, and of all others pertaining to the Department of State. He receives every bill, resolution, or vote, that is passed by congress—carefully preserves the originals, and causes them to be recorded in books provided for that purpose; and it is his duty to cause them to be published in one public news-

paper or more, in each state. At the end of every session of congress, the Secretary of State causes to be printed under his direction, the number of copies required by law, of the laws passed at such session, and causes them to be delivered to the various officers, and persons entitled to receive them.

He has the custody of the seal of the United States; and it is his duty to make out and record all civil commissions to officers of the United States, who are appointed by the President alone, or by him, with the advice and consent of the Senate, and to such commissions, when signed by the President, he affixes the seal of the United States; and also to other instruments and acts, for which he has the special warrant of the President.

The Secretary of State has also a seal of office, made for his department, and all copies of records and papers in his office, authenticated under this seal, are evidence, equally as the originals.

He employs a chief clerk, a messenger and assistant, and other clerks, to aid in performing the duties of the State Department, whose number and compensation are regulated by law—and whose names it is the duty of the Secretary to report to congress in the beginning of each year. He also employs the superintendant of the Patent office, a machinist, and messenger therein, whose compensation is fixed by law.

The salary of the Secretary of State is $6000 per annum.

OF THE SECRETARY OF WAR.

The Secretary of War is appointed in the same manner as the Secretary of State, holds his office for the same term, and is in like manner removable.

Chief powers and duties. He has the principal charge of

the Department of War, and the custody of all records, books, and papers pertaining to the same. He performs and executes such duties as from time to time are enjoined upon, or entrusted to him by the President, relative to military commissions, to the land forces, warlike stores, and other matters respecting military affairs; also relative to the granting of lands for military services, or relative to pensions, or Indian affairs; and he conducts the business of his department, in such manner as the President orders and directs, and conformable to the laws and constitution of the United States.

Purchases and contracts for supplies for the military service are made under the direction of the Secretary of War, such as contracts for the subsistence and clothing of the army, and those by the quartermaster's department; but in general the Secretary is required to contract under a law authorising the same, or under an appropriation by congress adequate to its fulfilment.

It is the duty of the Secretary of War, to lay before congress annually a statement of the appropriations of the preceding year for his department, showing the balance unexpended if any, and containing an estimate of the probable demands which may remain.

The Secretary of War is authorised to employ one chief clerk, and other clerks to aid in the duties of his department, whose number and compensation are fixed by law.

The salary of the secretary of war is $6000, per annum

QUESTIONS ON THE PRECEDING.

How is the Secretary of State appointed?
What is his term of service?
For what causes may he be removed from office?
Can you enumerate his chief powers and duties?
Who has the custody of the seal of the United States?
To what papers and documents is this seal affixed?
Has the Secretary of State a seal of office?

For what purpose is this seal used?
What persons are employed in the office of the Secretary of State?
What is the salary of the Secretary of State?
How is the Secretary of War appointed?
Can you enumerate his chief powers and duties?
What statement is he required to lay before congress?
What persons does the Secretary of War employ in his office?
What is the salary of the Secretary of War?

OF THE SECRETARY OF THE TREASURY.

The Secretary of the Treasury is nominated by the President and appointed by him, by and with the advice and consent of the Senate, and holds his office for a like term as the Secretary of State, and is in like manner removable.

Chief powers and duties. The Secretary of the Treasury, is the head of the Treasury Department, where all claims and demands whatever, by the United States, or against them, or in which they are interested, either as debtors or creditors, are adjusted and settled.

It is the duty of the Secretary of the Treasury to digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit, and to superintend the collection of the revenue. He decides on the forms of keeping and stating accounts, and making returns—and grants warrants (under the limitations created by law) for monies to be issued by the Treasury, in pursuance of appropriations by law. He executes such services relative to the sale of lands belonging to the United States, as are required of him by law. When required, he reports and gives information to either branch of congress, in person, or in writing, concerning matters pertaining to his office; and in general performs all services which he is directed to perform, relative to the finances.

It is his duty to digest, prepare, and lay before congress at the commencement of every session, a report on the subject of finance, containing estimates of the public revenue, and expenditures, and plans for increasing or improving the public revenues, for the purpose of giving information to congress in adopting modes of raising money requisite to meet the public expenditures.

He has the custody of the seal of his department—and this is affixed to the commissions of all officers employed in levying and collecting the public revenues; and these commissions are made out, and recorded in the Treasury Department.

There are other officers of the Treasury Department, such as Comptrollers, first, second, third, fourth and fifth Auditors, a Treasurer, Register, Solicitor, Commissioner of the Land office, &c., besides clerks in these various offices, a detail of whose powers and duties, would occupy too great space for the plan of this work, and it is therefore omitted.

The salary of the Secretary of the Treasury is $6000, per annum.

OF THE SECRETARY OF THE NAVY.

The Secretary of the Navy is nominated by the President and appointed by him, by and with the advice and consent of the Senate—he holds his office for the same term as the Secretary of State, and is removable for the like causes.

Chief powers and duties. He has charge of the department of the navy, and the control and direction of the naval forces of the United States. He superintends the procurement of naval stores and materials, and the construction, armament, equipment and employment of vessels of war, and all other matters connected with the naval establishment. He may appoint a principal clerk, and other clerks

(whose number and compensation are regulated by law) and employ them as he deems most expedient in the business of his department.

He lays before congress at the beginning of each year, a report containing an account of the expenditures of his department, and such suggestions and recommendations in regard to the affairs of the navy, as may be expedient and proper.

Attached to the office of the Secretary of the Navy, is a Board of Naval Commissioners, composed of three officers of the navy, whose rank is not below a post captain, and who are appointed by the President by, and with the advice and consent of the Senate; they perform the ministerial duties of the Secretary of the Navy under his superintendence. The officer of this Board, holding the oldest commission, presides; and the Commissioners employ clerks, whose number and salary are fixed by law.

The salary of the Secretary of the Navy is $6000, per annum.

The Commissioners receive $3,500, each per annum, in lieu of wages, &c. as naval officers.

QUESTIONS ON THE PRECEDING.

How is the Secretary of the Treasury appointed?
For what causes may he be removed from office?
Can you enumerate his chief powers and duties?
What is the substance of his report laid before congress?
Of what seal has he the custody?
To what is this seal affixed?
What are the other officers of the Treasury Department?
What is the salary of the Secretary of the Treasury?
How is the Secretary of the Navy appointed?
For what causes may he be removed from office?
Can you enumerate his chief powers and duties?
What is contained in his report which is laid before congress?
When, and how often is this report made?
Of whom, and how many is the Board Naval of Commissioners composed?

How are these Commissioners appointed?
What duties do they perform?
Who presides at the Board of Naval Commissioners?
What is the salary of the Secretary of the Navy?
What compensation do the Commisioners receive?

OF THE POST MASTER GENERAL.

The Post Master General is nominated by the President, and is appointed by him, by, and with the advice and consent of the Senate, and holds his office for the same term, and is removable for the same causes as the Secretary of State.

Chief powers and duties. There is established at the seat of government a General Post Office, under the direction of the Post Master General. He is authorised to appoint such a number of assistants and clerks as are authorised by law, and necessary for the performance of the business of his office. He has the custody of the seal of his office, which is affixed to the commissions of post masters, and is used to authenticate all transcripts and copies, which are required from his department. It is his duty to establish post offices, and appoint post masters, at such places as shall appear to him expedient on the post roads that are, or may be, established by law, and to give his assistants, the post masters, and all other persons who are employed in any of the departments or business of the General Post Office, instructions relative to their duty. It is his duty to provide for the carriage of the mail on all the post roads that are, or may, be established by law, and as often as he, regarding the productiveness thereof, may deem proper. He is required to obtain from the post masters their accounts, and vouchers for their receipts and expenditures, once in three months at least, with the balances arising on them in favor of the General Post Office.

He pays all expenses which arise in the conveyance of the mail, and other general expenses in the management of the General Post Office. It is his duty once in three months, to render to the Secretary of the Treasury a quarterly account of all the receipts and expenditures of his department, and these are adjusted and settled as other public accounts.

In case of his death, resignation, or removal from office, all the duties of the department are performed by his senior Assistant, until a successor is appointed, and enters upon his duties.

The salary of the Post Master General is $4000 per annum.

OF THE ATTORNEY GENERAL.

The Attorney General is nominated by the President, and appointed by him, by and with the advice and consent of the Senate, holds his office in the same manner, and may be removed for the same causes as the Secretary of State.

Chief powers and duties. It is his duty to prosecute all suits in the supreme court, in which the United States are concerned, and to give his advice and opinion upon questions of law when required by the President, or requested by the heads of any of the departments, touching any matter that may concern their departments.

The salary of the Attorney General is $3,500 per annum.

The Cabinet. The Secretary of State, Secretary of War, the Secretary of the Navy, Secretary of the Treasury, together with the Post Master General and Attorney General, compose what is termed *the Cabinet.* They are selected from among the political, and perhaps, personal friends of the President, and are supposed to be men of great talents, and integrity of character. The duties of their official stations, confine them for the greatest portion of their time at

the seat of the national government, where the President also resides; so that he can at any time call them around him for advice and consultation in regard to the measures of his administration; this he frequently does, and in general acts with their concurrence and sanction.

QUESTIONS ON THE PRECEDING.

How is the Post Master General appointed?
What is his term of office, and for what causes is he removed?
Where is the General Post Office established?
Who has the custody of his seal of office?
For what purpose is this seal used?
Can you enumerate the chief powers and duties of the P. M. General?
Suppose he dies, resigns, or is removed from office?
What is the salary of the P. M. General?
How is the Attorney General appointed?
Can you enumerate his chief powers and duties?
What is the salary of the Attorney General?
Of whom is the *Cabinet* composed?
What observations are made upon the Cabinet?

OF THE LEGISLATIVE POWER.

The Legislative power of the United States is vested in a Congress, which consists of *a Senate*, and *a house of Representatives*. Congress assembles at least once in each year, and on the first Monday of December, unless a different day be fixed by law.

In the language of the Constitution of the United States, congress has power;—

To lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence, and general welfare of the United States; (but all duties, imposts, and excises must be uniform throughout the United States:)

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post offices and post roads:

To promote the progress of science and useful arts, by securing for limited times, to authors and inventors the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court: to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations:

To declare war, grant letters of marque and reprisal and make rules concerning captures on land and water:

To raise and support armies; but no appropriation of money to that use, shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions:

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

To make all laws which may be necessary and proper for carrying into execution the foregoing powers, and all other

powers vested by the constitution in the government of the United States, or in any department or officer thereof.

Congress also exercises exclusive legislation over a district which cannot exceed ten miles square, and which is the seat of government of the United States; and also the like authority over all places purchased by the consent of the Legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

It will be perceived by this enumeration of the powers of Congress, that they are limited—the respective States, not designing to relinquish any more of their sovereignty and independence than was deemed necessary to promote the interests of the whole collectively, ensure an energetic general administration, and establish a permanent union.

OF THE SENATE.

The Senate of the United States is composed of two Senators from each State, who are chosen by the Legislatures of their respective States, and hold their office for six years.

The Senate has the sole power to *try* all impeachments, and may convict on a vote of two-thirds of the members present.

Qualifications. A Senator must have attained the age of thirty years; must have been nine years a citizen of the United States, and when elected must be an inhabitant of the State for which he is chosen. No person holding an office under the United States, can be a member of the Senate during his continuance in office.

Privileges and disabilities. They are in all cases except treason, felony, and breach of the peace, privileged from arrest during their attendance at session, and in going to, and returning from such session; and they are not subject

to be questioned in any other place, for any speech or debate.

They cannot hold any civil office under the United States (during the term for which they are elected) which has been created, or the emoluments of which have been increased during such time.

OF THE HOUSE OF REPRESENTATIVES.

The house of Representatives of the United States is composed of members chosen every second year by the people of the several States; and the number of Representatives cannot at present exceed one to every forty-seven thousand and seven hundred of inhabitants; but the ratio is changed with every census taken by the United States.

This house chooses its speaker and other officers. It has the sole power of impeachment, and originates all bills for raising revenue.

Qualifications. A Representative in Congress, must have attained the age of twenty-five years; have been seven years a citizen of the United States, and when elected, must be an inhabitant of the State for which he is chosen.

Privileges and disabilities. A member of this house is entitled to the same privileges, and subject to the same disabilities as a member of the Senate.

QUESTIONS ON THE PRECEDING.

In what body is the Legislative power of the United States vested?
What does Congress consist of?
How often, and when does Congress assemble?
Can you enumerate the principal powers of Congress?
What observations are made upon the limitations of the powers of Congress.
Of whom is the Senate of the United States composed?

How are Senators chosen?
How long do they hold their office?
What number is necessary to convict on the trial of Impeachments?
What are the qualifications of a Senator?
What are his privileges and disabilities?
By whom, and how often are members of the house of Representatives chosen?
How many inhabitants entitle to a Representative?
What are the qualifications of a Representative?
What are his privileges and disabilities?

OF THE JUDICIAL POWER.

By the constitution the judicial power of the United States is vested in a supreme court, and in such inferior courts, as congress may from time to time establish.

The judges of these courts are appointed by the President by, and with the advice and consent of the Senate, and hold their offices during good behaviour; but may be removed from office on impeachment for, or conviction of treason, bribery, or other high crimes and misdemeanors.

The judicial power of the United States extends to all cases in law and equity, arising under the constitution and laws of the United States, and treaties made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maratime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and the citizens of another State, between citizens of different States, between citizens of the same State, claiming lands under grants of different States, and between a State or the citizens thereof, and foreign States, citizens or subjects.

But the judicial power cannot be construed to extend to any suit commenced or prosecuted against one of the Uni-

ted States, by citizens of another State, or by citizens or subjects of any foreign State.

OF THE SUPREME COURT OF THE UNITED STATES.

This court consists of a Chief Justice and eight Associate Justices, any five of whom may hold the court.

The salary of the Chief Justice is $5000,—and that of the Associate Justices is $4,500 each per annum.

Clerk. This court has a clerk, who is appointed by the court. He keeps his office at the seat of the national government, where all the proceedings of the court are entered and its records kept.

Terms. This court holds one session annually at the City of Washington, commencing on the second Monday of January in each year, and continues as long as the court esteem necessary.

Attornies and Counsellors. In order to be admitted as an Attorney or Counsellor of this court a person must have been for three years an Attorney or Counsellor of the supreme court of the State to which he belongs, and of fair private and professional character. He is then admitted on motion of some counsellor, in whom the court repose confidence, and who states that the applicant is entitled to admission.

OF THE CIRCUIT COURTS OF THE UNITED STATES.

The United States are divided into Circuits, called the first, second, third, fourth, fifth, sixth seventh eighth and ninth circuits.

Judges. A Justice of the supreme court of the United

States, and a Judge of the District court of the District in which the court sits, hold these courts in the respective circuits; and in certain enumerated cases a Justice of the supreme court, may hold these courts alone.

Clerks. In general the clerk of each District court is clerk of the circuit courts held in his District.

Sessions. In most circuits two sessions of the circuit court are held annually; and at such times and places as congress directs by law.

Attornies Counsellors &c. Persons entitled to practise in the supreme or superior courts of the several States, are entitled to admission in the circuit courts of the United States, held therein, of course.

OF THE DISTRICT COURTS OF THE UNITED STATES.

The present number of the District courts of the United States, is thirty-five. They are established by congress, and are subject to be increased or diminished, as the public good requires.

Judges. The Judges of these courts are appointed by the President, by and with the advice and consent of the Senate —and hold their offices during good behaviour—subject, however, to removal for the same causes as the Judges of the supreme court.

Their number is at present twenty-seven—so that there is nearly one Judge for each District.

Clerk. The clerk is appointed by the court, he keeps his office at the place of holding the court, when it is held at only one place; and in case of its being held at more than one place, then at a place designated by the District Judge. He records the proceedings, decrees, and judgments of the court, and attends the sessions of the same.

Sessions. The times and places of holding the sessions of

these courts are prescribed by the laws of Congress, and two or more, are held in each District in a year.

Marshall. There is one Marshall for each District and Territory, who is appointed by the President, by, and with the advice and consent of the Senate, and holds his office for four years; subject to be removed at the pleasure of the President.

Chief powers and duties. He attends the District, and circuit courts, and supreme court, when sitting in the District for which he is appointed; and he executes throughout the District, all process directed to him, and issued under the authority of the United States. He may command all necessary assistance in the execution of his duty; and may appoint one or more deputies, who are removable from office at the pleasure of the Judge of the District Court, or the Circuit Court sitting in their District.

United States District Attornies. There is a District Attorney for each District, who is appointed by the President, by, and with the advice and consent of the Senate—and whose term of service is four years, subject to be removed at pleasure.

He prosecutes in his district, all delinquents for crimes and offences cognizable under the authority of the United States; and also all civil actions in which the United States are concerned, and in these latter acts under the direction of the Solicitor of the Treasury.

It is not thought advisable to define the respective jurisdictions of these courts of the United States. We have given the subject matter of their jurisdiction, and their organization, and that may suffice for the general reader.

QUESTIONS ON THE PRECEDING.

In what courts is the Judicial power of the United States vested?
How are the Judges of the United States appointed?
How long do they hold their office?
For what causes may they be removed?
To what cases does the Judicial power of the United States extend?
Of what persons does the supreme court consist?
How many may hold this court?
What is the salary of the Chief Justice?
What is the salary of the Associate Justices?
How is the clerk of the supreme court appointed?
Where does he keep his office?
When, where, and how often does this court sit?
What are the qualifications of Attornies &c., of this court?
How are they admitted?
Into how many circuits are the United States divided?
Who hold the circuit courts?
Who are clerks of the circuit courts?
How many sessions of the circuit courts are held annually?
Who may be admitted as Attornies &c., of circuit courts?
What is the number of District Courts in the United States?
How many Judges are there of these courts?
How are the clerks appointed?
What are the duties of the clerks?
How many sessions of these courts are held in a District annually?
Is there a Marshall for each District, and how appointed?
Can you enumerate his chief powers and duties?
Can he appoint deputies?
What is said of United States District Attornies?

OF THE RIGHTS OF CITIZENS AND INHABITANTS OF THIS STATE.

1. No authority can be exercised over citizens, but such as is derived from or granted by the people. That the people are the source of all power, is the principle upon which

our government is based; and by our example the notion of the *divine right* of rulers is made ridiculous and false.

2. The citizen is not subject to any tax, duty, or imposition, without the assent of the people expressed by a law of the United States, or of this State. All laws being made by the people, through the medium of their representatives, the consent of the people is thus given to every tax and burden which the exigencies of government require.

3. The people have a right to keep and bear arms, and this for the security of freedom. The citizen is thus ever armed against foreign aggression, and prepared to encounter civil war, and becomes the sleepless sentinel of his liberties.

4. All inhabitants, who, from scruples of conscience, are averse to bearing arms, are excused therefrom, by paying an equivalent in money. This class is necessarily small, as a freeman rather esteems it a privilege, than a task, to bear arms in his country's defence.

5. No soldier can, in time of peace, be quartered in any house without the owner's consent; nor in time of war, but in the manner prescribed by law. In arbitrary governments, soldiers are quartered in the houses of the subject at the pleasure of the State, and a grievous and unequal contribution is thus exacted from the private individual, whether in times of peace or war.

6. No member of this State can be deprived of the rights or privileges secured to a citizen, unless by the law of the land, or the judgment of his peers; and the trial by jury, in all cases heretofore used, remains inviolate for ever.

7. The free exercise and enjoyment of religious profession and worship, is for ever secured in this State to *all mankind;* and neither the Congress of the United States, nor the legislature of this State, can establish a religion by law, prohibit the free exercise of it, or give preference to one religion over another. Thus religious freedom is placed upon a firm basis, and for ever secured against the machinations of bigotry and fanaticism.

8. The privilege of the writ of habeas corpus, cannot be suspended, unless when in cases of rebellion, or invasion, the public safety requires it. This is a writ by which a person confined or restrained of his liberty, can, in the cases prescribed by law, be brought before a proper court or officer —with the cause of his imprisonment; and if it is ascertained that his imprisonment is unlawful, he must be forthwith discharged and set at liberty. Hence it becomes a great security for the personal liberty of the citizen.

9. The people are by law secure in their persons, houses, papers, and effects, against unreasonable searches and seizures; and warrants issue only upon probable cause, supported by oath, in which are particularly described the place to be searched, and the persons or things to be seized.

10. In general, no person can be held to answer for a capital or infamous crime, unless on presentment or indictment by a grand jury; and upon trial the accused is allowed counsel, or he may appear and defend in person. A fair and impartial trial is secured to the accused; his guilt or innocence is put to the test, while every means of vindication is afforded him.

11. No person can be twice put in jeopardy of life or limb for the same offence, nor be compelled in a criminal case to testify against himself; and in all criminal cases the accused has a right to a speedy and public trial by an impartial jury; is entitled to be informed of the nature and cause of the accusation; to be confronted with witnesses against him, and to have process for witnesses in his favor.

12. No person can be deprived of life, liberty, or property, without due process of law; and private property cannot be taken for public use without just compensation.

13. Neither justice nor right should be sold to any person, nor denied, nor deferred; and writs and process ought to be granted freely and without delay to all persons requiring them, on payment of the fees established by law.

14. No citizen is subject to be fined or amerced, without

reasonable cause, and such fine or amercement should be apportioned to the offence.

15. All elections ought to be free—and no person by force of arms, menacing, or otherwise, should presume to disturb or hinder any citizen in the free exercise of the right of suffrage.

16. It is the right of the citizen to petition the governor and legislature.

17. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law can be passed to restrain or abridge the liberty of speech, or of the press.

18. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if the matter charged as libellous be true, and was published with good motives, and for justifiable ends, the party is to be acquitted.

OF ELECTIONS.

General elections are held in every county in this State, on the first Monday of November in each year, and are continued by adjournment for three days in succession. These are held for the election of some or all of the following officers, to wit: Governor, Lieutenant Governor, Senators, Members of Assembly, Sheriffs, Clerks of Counties, Coroners, Representatives in Congress, and electors of President. Special elections may be ordered to fill vacancies in elective offices.

How held and by whom. Elections are held by towns in all parts of the State, except in the cities of New York, Albany, Troy, Schenectady, Brooklyn, and some other cities, where they are held by wards.

The supervisor, assessors, and town clerk of each town, (where the elections are held by towns,) preside at and are inspectors of elections.

Qualifications of voters. To entitle a person to vote at elections, he must possess the following qualifications, viz: 1. He must be a citizen. 2. He must be of the age of twenty-one years. 3. He must have been an inhabitant of the State for one year next preceding the election, and for the last six months a resident of the county where he offers his vote. And 4. He must vote in the town or ward where he resides.

Persons of color, are not entitled to vote unless they have been citizens of the State for three years, and for one year next preceding the election, shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances charged thereon, and shall have been rated and paid a tax thereon.

A person who has been convicted of an infamous crime in this State, cannot vote at an election, unless he has been pardoned by the executive, and by the terms of the pardon restored to all the rights of a citizen.

Privileges of electors. No civil process can be served on an elector on any day during which an election is held.

The purity of elections. The excitement attending our elections was so great, the temptations to the use of improper means to influence voters so frequent, and the abuses of the elective franchise so numerous, that the legislature felt impelled by a sense of patriotism, to prohibit, under penalties, the pernicious practices which had gradually crept in upon us in the exercise of our free privileges.

It is now unlawful for any candidate for an elective office in this State, with an intent to promote his election, or for any other person with the like intent, to furnish or provide entertainment at the expense of such person, or candidate,

to any meeting of electors, previous to, or during the election at which he is a candidate, or to pay for, procure, or engage to pay for such entertainment. It is likewise unlawful to furnish any money or other property to any person for the purpose of being expended in procuring the attendance of voters at the polls. No person is allowed to contribute money for any other purpose, intended to promote the election of any particular person or ticket, except for defraying the expenses of printing, and the circulation of votes, handbills, and other papers, previous to an election.

All persons are prohibited from fraudulently, or deceitfully changing the vote of an elector, by which he is prevented from voting for the candidate he intended. Every offender against these provisions is guilty of a misdemeanor, and is punishable, by fine, not exceeding $250, or by imprisonment not exceeding six months.

The following provisions have been recently made by law, for preserving the purity of town meetings and elections—Any person who upon being challenged as unqualified to vote at any town meeting shall be guilty of wilful and corrupt false swearing, or affirming, in relation to his right to vote, shall be adjudged guilty of wilful and corrupt perjury.

Any person who shall wilfully and corruptly procure another to swear falsely at any such town meeting shall be deemed guilty of subornation of perjury, and shall suffer the punishment directed by law in case of wilful and corrupt perjury.

Any person who by bribery or menace, or any other corrupt means, shall attempt to influence any elector in giving his vote, or to deter him from giving the same, or disturb or hinder him in the exercise of his right of suffrage at any town meeting, shall be adjudged guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding one year, or both.

Any person who shall fraudulently or deceitfully change the vote of any elector at a town meeting, so that he shall be prevented from voting for the candidate he intended, shall suffer the same punishment.

Any person who shall vote in any town in which he does not reside, or shall vote, or offer to vote in more than one town at any annual town meeting in the same year, shall be adjudged guilty of misdemeanor and be punished by fine not exceeding one hundred dollars, or imprisonment not exceeding six months, or both. And any person, who at a general city or charter election shall vote or offer to vote in any ward in which he does not reside, or who shall vote, or offer to vote, more than once at the same election either in the same or any other ward, shall be deemed guilty of a misdemeanor, and be punished in the same manner.

Every person who shall procure, aid, assist, counsel, or advise another to give or offer his vote at any general town city or charter election, or to go into any town or ward for the purpose of giving his vote in such town or ward at any general town, city, or charter election, knowing that such person is not entitled to vote at such election, shall be deemed guilty of misdemeanor, and shall be punished in the same manner.

Any inhabitant of another State who shall vote or offer to vote at any general town, city, or charter election in this State, shall be adjudged guilty of felony, and be imprisoned in a State prison for a period not exceeding one year.

QUESTIONS ON THE PRECEDING.

How often are general elections held?
On what day?
How are they continued, and for what time?
Can you name the officers that are chosen at such elections?
How are these elections held?
Who are inspectors of elections?
Where are elections held by wards?

Can you name the qualifications of a voter?
Where must he vote?
When are persons of color entitled to vote?
What effect has a conviction for crime?
What are the privileges of an elector?
Can you enumerate the acts and practices prohibited in regard to elections and town meetings?
What is the offence, and the punishment, of violating these prohibitions?

OF THE PUBLIC OFFICERS OF THIS STATE.

The civil officers of the State are divided into four classes, viz. *legislative*, *executive*, *judicial*, and *administrative*. These are treated of in their order.

OF LEGISLATIVE OFFICERS.

The legislative officers are, thirty-two senators, and one hundred and twenty-eight members of assembly, a speaker of the house of assembly, chosen by the members of that body, a clerk, a serjeant at arms, and a door-keeper, with other subordinate officers for each house.

OF SENATORS.

Senators are chosen by the people and by districts; one Senator being chosen annually in each senate district. Their term of office is four years.

Qualifications. Senators must be freeholders.

Privileges and disabilities. Senators are privileged from arrest on civil process during their attendance upon the legislature, and for fourteen days previous to the session of the legislature, and also while going to and returning from such session for fourteen days; except upon process in suits for

any forfeiture, misdemeanor, or breach of trust, in any office or place of public trust held by them.

They are not accountable in any other place for any speech or debate made in the Senate; and they are exempt from military duty.

They cannot receive any civil appointment from the Governor and Senate, or from the legislature, during their term of office; and if they are elected to Congress, or appointed to any office, civil or military, under the government of the United States, their acceptance vacates their seat in the Senate.

OF MEMBERS OF ASSEMBLY.

Members of Assembly are chosen annually by the people, and hence their term of office is one year.

Privileges and disabilities. They are entitled to the same privileges, and subject to the same disabilities as are herein mentioned of Senators. (See Senators.)

QUESTIONS ON THE PRECEDING.

Into how many, and what classes are the civil officers of the State divided?
What are the legislative officers?
How are the Senators chosen?
What is their term of service?
What are their qualifications?
What are the privileges of Senators?
What are their disabilities?
How are the members of Assembly chosen?
What is their term of service?
What are their privileges and disabilities?

OF EXECUTIVE OFFICERS.

The executive officers are, a *governor*, and *lieutenant governor*, *secretary of state*, *comptroller*, *treasurer*, *attorney*

general, surveyor general, state printer, private secretary for the governor, and a *door keeper of the executive chamber.*

OF THE GOVERNOR.

The governor is chosen by the people at a general election, and holds his office for two years.

Qualifications. He must be a native citizen of the United States, and a freeholder; he must have attained the age of thirty years, and have been five years a resident within this State.

Chief powers and duties. The governor is general and commander in chief of all the militia, and admiral of the navy of the State. He has power to convene the legislature or the Senate, on extraordinary occasions, and to grant reprieves and pardons, after conviction for all offences, except cases of treason, and impeachment. He has the custody of the great and privy seals.

It is his duty to communicate to the legislature, at every session, the condition of the State, and to recommend such measures as he deems expedient. It is his duty also, to transact necessary business with the officers of government, to expedite all measures resolved upon by the legislature, and to see that the laws are faithfully executed

The salary of the governor is $4000 per annum.

OF THE LIEUTENANT GOVERNOR.

The lieutenant governor is elected by the people at the same time, and for the same term of service, as the governor.

Chief powers and duties. He is president of the Senate; but only has a casting vote therein.

In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the State, the powers and duties of the governor devolve upon the lieutenant governor.

OF THE SECRETARY OF STATE.

The secretary of state is appointed by the legislature, and holds his office for three years, unless sooner removed by a concurrent resolution of the senate and assembly.

Chief powers and duties. He has the custody of all the books, records, deeds, parchments, maps, and papers, deposited in his office, and has power to administer the oath of office to certain officers of government. He is by right of office, one of the commissioners of the land office, one of the state canvassers, one of the commissioners of the canal fund, a member of the canal board, one of the trustees of the state library, superintendent of common schools, and state sealer of weights and measures.

It is his duty to attend at every session of the legislature, to cause the original laws passed at each session to be bound together in a volume, to deposite in his office one copy of the laws printed by the state printer, after being examined and compared, and to distribute the printed laws and journals of each session, immediately after their publication, to certain persons entitled by law to receive them.

His salary is $1750 per annum.

QUESTIONS ON THE PRECEDING.

Can you name the executive officers?
How is the governor chosen?
What is his term of office?
What are his qualifications?
Can you name his chief powers and duties?
What is his salary?
How is the lieutenant governor chosen?
What is his term of service?
What are his chief powers and duties?
When do the duties of the governor devolve upon him?
How is the secretary of state appointed?
What is his term of service?
How may he be removed?
Can you enumerate his chief powers?
What is his salary?

OF THE COMPTROLLER.

The comptroller is appointed in the same manner as the Secretary of State, and holds his office for a like term, and is removable in the same manner.

Chief powers and duties. He superintends the fiscal concerns of the State, and manages them according to law. He is by right of office, one of the commissioners of the land office, one of the commissioners of the canal fund, a member of the canal board, a trustee of the state library, and one of the state canvassers.

It is his duty to exhibit to the legislature, at its annual meeting, a statement of the funds of the State, of its revenues, of the expenditures during the preceding year, and a statement in detail of the expenses to be defrayed from the treasury for the ensuing year. It is made his duty to suggest plans for the improvement and management of the public revenues, to keep and state all the accounts of the State, to settle the accounts of all persons indebted to the State, and to certify the amount to the treasurer. The comptroller superintends the collection of all monies due to the State, examines and liquidates all claims against the State, and draws warrants on the treasurer for the payment of all monies directed to be paid out of the treasury.

His salary is $2500 per annum.

OF THE TREASURER.

The treasurer is appointed annually by the legislature.

Chief powers and duties. He receives all monies paid into the treasury of the State. He is by right of office, one of the commissioners of the land office, one of the commissioners of the canal fund and of the canal board, and one of the State canvassers.

Before he enters upon the duties of his office, he executes a bond to the people of the State, in the sum of fifty thou-

sand dollars, with at least four sureties, conditioned that he will faithfully execute the duties of his office.

It is his duty to pay all warrants drawn by the comptroller on the treasury; and is not authorized to pay without such warrant. It is his duty also to exhibit to the legislature at its annual meeting, an exact statement of the balance in the treasury, with the amount of the receipts and payments of the treasury, during the preceding year. The accounts of the treasurer are annually examined by a committee appointed for that purpose by the legislature.

His salary is $1500 per annum.

OF THE ATTORNEY GENERAL.

The attorney general is appointed by the legislature, and holds his office for three years, unless sooner removed by a concurrent resolution of the senate and assembly.

Chief powers and duties. He prosecutes and defends all actions, in which the people of this State are interested. He is by right of office, one of the commissioners of the land office, of the canal fund, and canal board, one of the State canvassers, and one of the trustees of the State library.

It is his duty (when requested by the comptroller or surveyor general) to prepare drafts for contracts, and other instruments which are wanted for the use of the State; and to attend (when required by the governor, or by a justice of the supreme court) courts of oyer and terminer, and conduct suits and prosecutions of the people. It is also his duty to prosecute all persons charged by the governor, secretary of state, comptroller, treasurer, or surveyor general, with the commission of an offence against the laws in relation to matters connected with their respective departments; and to cause all persons who are indicted for corrupting, or attempting to corrupt, any member of the legislature, or commissioner of the land office, to be brought to trial.

He pays all monies received by him for debts due, or pen-

alties forfeited to the people, into the treasury of the State; and keeps a register of all action and demands prosecuted or defended by him in behalf of the people, and of all proceedings in them, and this he delivers to his successor in office.

His salary is $1000 per annum.

OF THE SURVEYOR GENERAL.

The surveyor general is appointed by the legislature, and holds his office for three years, but may be sooner removed, in the manner of the attorney general,

Chief powers and duties. He superintends the surveys and sales of lands, belonging to the people of this State.

He is by right of office, one of the commissioners of the land office, one of the commissioners of the canal fund, and the canal board, and state canvasser.

It is his duty to retain in his office, a map of this State, and from time to time to delineate thereon, the bounds of all the towns and counties erected or altered by the legislature; to determine disputes between the officers of two or more towns respecting the bounds of such towns, upon hearing the proofs of the parties, and if necessary, by directing a survey to be made; and to file such determination in the office of the secretary of state. He accounts, from time to time, with the comptroller, for all monies received by him in behalf of the State, or from the treasury.

His salary is $800 per annum.

OF THE STATE PRINTER.

The state printer is appointed by law, and holds his office during the pleasure of the legislature.

Chief powers and duties. It is his duty to print, during each session of the legislature, three hundred and twelve copies of the journals of each house, and also to print during the session, for the use of the members, three hundred and

fifty copies of every bill, report, memorial, or other document, which shall be ordered by either house, and such extra copies as are ordered.

He does all printing required by law, or by a concurrent resolution of the senate and assembly, for the State, or for either of the executive branches thereof. He prints in the city of Albany, a newspaper, which is deemed the state paper, and this is published weekly, or semi-weekly, at his discretion; and in this paper he is required to publish forthwith every certified copy of a law delivered to him for publication by the secretary of state. He is bound to publish in his paper, all notices, and advertisements, delivered to him for that purpose, which are by law required to be published in the state paper. It is his duty to print, in volumes of octavo size, so many copies of the laws of each session, as shall be directed by the secretary of state, and to deliver such copies, bound in boards, to him within one month after the close of the session in which such laws were passed.

The accounts of the state printer for his services to the State, are audited by the comptroller, and paid out of the treasury.

The governor's private secretary, and the door keeper of the executive chamber, are appointed by the governor, and hold their respective offices during his pleasure. Their duties are few, and are well enough expressed by their titles.

The salary of the governor's private secretary is $600.

QUESTIONS ON THE PRECEDING.

How is the comptroller appointed?
What is his term of service, and how may he be removed?
What is the comptroller by right of office?
Can you mention his chief powers and duties?
What is his salary?
How is the treasurer appointed?
What are the duties of his office?
What is his salary?

How is the attorney general appointed?
What is his term of service?
How may he be removed from office?
Do you understand the duties of his office?
What is his salary?
How is the surveyor general appointed?
What is his term of service, and how removed?
What is he by right of office?
Can you enumerate some of the chief duties of his office?
What is his salary?
How is the state printer appointed?
How long does he hold his office?
What are the duties of his office?

OF JUDICIAL OFFICERS—AND HEREIN OF THE COURTS OF THIS STATE.

We propose, 1st. An enumeration, with their mode of appointment and term of service.

2d. The station they occupy in the organization of courts, and their powers briefly.

First. Enumeration &c. The chancellor, chief justice, and two justices of the supreme court, and eight circuit judges, a vice chancellor for the first circuit, and also one for the eighth circuit, are appointed by the governor with the consent of the senate, and hold their offices during good behaviour, or until they respectively attain the age of sixty years. These may be removed by the joint resolution of the two houses of the legislature, if two-thirds of the members of the assembly and a majority of the members of the senate concur therein. They are prohibited, by law, from holding any other office of public trust; and all votes, given to either of them for an elective office, are void. They are exempt from military duty.

Judges of the county courts, recorders of cities, the

judges of the court of common pleas of the city and county of New York, the chief justice and associate judges of the superior court of said city and county, are appointed by the governor, with the consent of the senate, and hold their offices for five years. These may be removed for cause, by the senate, on the recommendation of the governor. They too, are exempt from military duty.

Masters and examiners in chancery are appointed, and are removable in like manner. Their term of service is three years.

The register and assistant register in chancery, and the chancery reporter, are appointed by the chancellor, and hold their offices during his pleasure.

The state reporter is appointed by the lieutenant governor, the chancellor, and chief justice, and holds his office during their pleasure. He must have been a counsellor at law, or in chancery, at least five years previous to his appointment.

The clerks of the court of chancery, of the supreme court, and of the court for the trial of impeachments and the correction of errors, are appointed by the courts of which they are respectively clerks. Their term of service is three years, but they may be sooner removed by the courts which appointed them. The above mentioned officers are exempt from military duty.

Counsellors, solicitors, and attornies, are appointed and licensed by the several courts in which they intend to practice; and are required to have pursued juridical studies, for a certain period of time, or to have practised a certain term, before admission; and, in addition to these requisites, they are to be of approved learning, and possessed of a good moral character. When admitted, their professional conduct is vigilantly watched by the courts in which they practice, and every species of unfair practice is punishable by law. They hold their offices for life, subject to removal or suspension from practice, for misdemeanor, deceit, or malprac-

tice. Such removal or suspension by the chancellor or the supreme court, from their respective courts, operates as a removal or suspension in every court in the State; but in all other cases, it operates as a removal or suspension in the court only by which it is done.

This is a learned and honorable profession, and by a fair and upright practice of it, the professor may greatly aid the administration of justice and the investigations of judges, and relieve his fellow citizens from fraud and oppression.

There are four justices of the peace for each town in the State, who are elected by the people of their respective towns, at their annual town meetings in the same manner as they elect their town officers; and hold their office for four years. This mode of electing justices of the peace, so operates at this time, that one justice is elected at each annual town meeting, to supply a vacancy that will happen on the first day of January thereafter, when the person elected enters upon the duties of his office.

QUESTIONS ON THE PRECEDING.

How are the chancellor and justices of the supreme court appointed?
How long do they hold their offices?
How may they be removed?
Can they hold any other office?
How are the judges appointed?
What is their term of service?
How may they be removed from office?
How are masters and examiners in chancery appointed?
What is their term of service?
How are the register and reporter in chancery appointed?
How long do they hold their office?
How is the State reporter appointed?
How long does he hold his office?
What are his qualifications?
How are the clerks of the court of chancery, supreme court, and court of errors appointed?
What is their term of service?
By whom may they be removed?

How are counsellors, solicitors and attornies appointed?
What are their qualifications?
How long do they hold their office?
For what causes may they be removed?
How many justices of the peace are there for each town?
How are they elected?
How long do they hold their office?
How many are elected in a town each year?
When do they enter upon the duties of their office?

Second. The station they occupy, &c.

OF THE COURT FOR THE TRIAL OF IMPEACHMENTS AND THE CORRECTION OF ERRORS.

The president of the Senate, the Senators, the chancellor, and the justices of the supreme court, constitute this court.

Chief powers and duties. This court, when properly organized, tries all impeachments. These are delivered by the assembly to the president of the Senate, and he thereupon causes the court for the trial of impeachments to be summoned. When this is done, the person impeached is caused to appear before the court, to answer the charge exhibited against him, and is entitled to a copy of the impeachment, and a reasonable time to answer it; and on the trial he is allowed counsel.

Before the trial proceeds, an oath is administered to each member, truly and impartially to try and determine the charge in question, according to evidence. In order to convict the accused, the concurrence of two-thirds of the members present is required—without which the person impeached is declared acquitted.

The judgment, upon a conviction, may be, that the person impeached be removed from office; or, that he be disqualified to hold any office of honor, trust, or profit, under

this State, or both of these—but no other judgment can be given.

A person impeached, is suspended from the exercise of his office until acquitted; and if he is convicted, he is also further liable to indictment, and such punishment as the law prescribes for his offence.

This court also sits for the correction of errors, which happen in the court of chancery, or the supreme court.

Errors in the orders or decrees of the court of chancery, are brought before this court by appeal, and there are examined and heard; and the court affirms, reverses, or alters the orders or decrees appealed from, or makes such other order or decree as justice requires.

Errors in the judgments and proceedings of the supreme court, are brought before this court by writ of error; and this court has power to reverse or affirm the judgment of the supreme court, or to give such other judgment as the law requires.

When an appeal from a decree in chancery is heard in this court, the chancellor informs it of the reasons for his decree, but has not a final vote. And when a judgment of the supreme court is reviewed in this court, the justices of that court assign the reasons for their judgment; and these reasons in both cases are assigned in writing, and before the argument commences.

The sessions of this court are held at such times as the court from time to time directs, so that but two sessions only be held in any one year, during the recess of the legislature.

Process. The process of this court are signed by the clerk, with the seal of the court affixed, and tested in the name of the president of the Senate.

QUESTIONS ON THE PRECEDING.

Of what officers is the court for the trial of impeachments and the correction of errors composed?

How does it proceed in the trials of impeachments?

How many members must concur in order to convict?
What is the judgment upon conviction?
What cases does this court determine as a court of errors?
How many terms of this court may be held in a year?
Who signs the process of this court?

OF THE COURT OF CHANCERY.

The powers of this court are vested in the chancellor.

Powers and jurisdiction. The jurisdiction of this court is very extensive, and difficult to define. It seems however to take cognizance of the various matters that may arise under the following heads, viz. Fraud, Trust, and Accident.

The specific performance of agreements, powers, wills, devises and legacies, trustees and guardians, executors and administrators, form a large class of cases and persons over which this court exercises jurisdiction; as also over many other cases in which courts of law afford no remedy, or not such an one as equity and natural justice require. It has also concurrent jurisdiction with courts of law, in all matters of account, and also where the remedy at law is doubtful.

This court will dismiss every suit concerning *property* where the matter in dispute, exclusive of costs, does not exceed one hundred dollars.

The chancellor has jurisdiction of appeals from the decrees of vice chancellors and surrogates, and in a few cases from the judgments and determinations of the courts of common pleas and circuit judges.

Terms. The terms of this court are appointed by the chancellor, and may be altered by him as the public convenience requires; but four terms are required by law to be held in each year—two in the city of Albany, and two in

the city of New York. These stated terms are held for eight days at least, and longer if necessary.

Vice chancellors. Every circuit judge within the limits of his circuit except in the first and eighth circuit, is a vice chancellor, and in the following cases possesses the powers and jurisdiction of the chancellor.

Where the cause and matter *arises* within his circuit; where the matter in controversy is *situated* within his circuit; and where the persons proceeded against, or either of them *reside* within his circuit. And the decisions of the vice chancellors are reviewed, on appeal, by the chancellor; but a vice chancellor cannot in any case review the decrees or decisions of another, nor of any other inferior court or officer, except in a few cases specially provided by law.

Terms. Vice chancellors are required to hold four stated terms in each year, at such times and in such counties in their respective circuits, as they may appoint at the usual place of holding courts in such counties.

They may also hold special terms, at such times and places as they deem proper.

QUESTIONS ON THE PRECEDING.

In whom are the powers of the court of chancery vested?
Can you define the jurisdiction of this court?
Of what appeals has the chancellor jurisdiction?
Who appoints the terms of this court?
How many terms are required to be held in each year?
Where and how long are these stated terms held?
Who are vice chancellors?
Of what cases has the vice chancellor jurisdiction?
How are the decisions of the vice chancellors reviewed?
How many stated terms in each year does a vice chancellor hold?
Can they hold other terms?

OF THE SUPREME COURT.

The powers of this court are vested in a chief justice and two associate justices—any of whom may hold the court.

Chief powers and duties. The powers and jurisdiction of this court are great and extensive—equal to those of the courts of king's bench, common pleas, and exchequer of England—with certain exceptions, limitations and additions, created and imposed by the constitution and laws of this State.

This court has jurisdiction of civil and criminal causes—has power to command magistrates and other civil officers to do their duty, and to interfere for the protection of the liberty of the citizen. It reviews and corrects the decisions of the circuit courts, and courts of oyer and terminer, and the decisions and judgments of the courts of common pleas and general sessions of the peace, in the various counties in the State, and renders such judgment, or makes such order, as the nature of each case requires.

Issues, or questions of law, independent of facts arising in cases brought before this court, are determined by the court upon argument; but issues of fact, (or where the controversy arises from a state of disputed facts,) are tried at the circuit courts, or in such other manner as is directed by law.

Terms. This court holds four terms in every year, which are called the January, May, July, and October terms.

January term commences on the first Monday of January, and is held at the Capitol, in the city of Albany.

May term commences on the first Monday of May, and is held at the City Hall, in the city of New York.

July term commences on the first Monday of July, and is held at the Acadamy, in the town of Utica.

And October term commences on the third Monday of October, and is held at the Capitol, in the city of Albany.

These terms may be continued from the commencement to and including the fifth Saturday thereafter.

This court holds certain other monthly terms, for hearing motions, and these may be held by any one of the judges.

Clerks, &c. The clerks of this court are four in number, and have each the custody of the seal of the court, which is affixed to its process. These clerks have each an office—one whereof is kept in the city of New York, one in the city of Albany, one in the city of Utica, and the other in the village of Geneva.

QUESTIONS ON THE PRECEDING.

In whom are the powers of the supreme court vested?
What are the powers and jurisdiction of this court?
How are issues of law determined in this court?
How are issues of fact determined by this court?
How many terms has this court in a year?
What are its terms called?
When does the January term commence, and where is it held?
When does the May term commence, and where is it held?
When does the July term commence, and where is it held?
When does the October term commence, and where is it held?
How long may these terms be continued?
What other terms does this court hold, and for what purpose?
How many clerks has this court?
Who has the custody of the seal of this court?
Where are the clerks' offices kept?

OF CIRCUIT COURTS.

The State is divided into eight circuits, which are the same in territory as the eight senate districts, and there is a circuit judge for each of these circuits, who holds courts therein.

The law provides that there shall be held at least two

circuit courts in each year, in each of the counties of this State, (except in the city and county of New York, where there is at least four) and these courts are held for so many days as the Judge holding them deems necessary.

Each circuit Judge appoints the times and places of holding circuit courts within his district.

Chief powers and duties. These courts try all such issues of fact, and take all such inquests as are to be tried and taken in them, and the issues here tried are issues of fact joined in cases brought in the supreme court, or other issues properly sent to the circuit to be tried by jury. They record nonsuits or defaults before them, and return all their proceedings into the supreme court, or into the court directing them.

Circuit judges may hold these courts out of their districts, and in any part of the State.

The trials of causes in these courts are had by jury, who are directed in matters of law by the judge; and their finding, is called a verdict—which is not received without the concurrence of every juror of the twelve, which is their number.

QUESTIONS ON THE PRECEDING.

Into how many circuits is the State divided, and what is their extent?
What officers hold circuit courts?
How many circuit courts are held in each county in a year?
How long may these courts be held?
Who appoints the times and places of holding these courts?
Can you enumerate the powers of these courts?
Can the judges hold courts out of their districts?
How are the trials in circuit courts had?
How many persons compose a jury?
How many must concur in order to find a verdict?

OF COURTS OF OYER AND TERMINER.

These may be, and usually are, held at the time and place at which any circuit court may be appointed; and two of them are required to be held in each year, in every county in the State. In most of the counties in the State, they are held by a circuit judge, or justice of the supreme court, together with at least two judges of the county courts of the county.

Chief powers and duties. This court has power to inquire by the grand jury, concerning all crimes and misdemeanors committed or triable in the county where it is held; to try and determine all such crimes and misdemeanors, and to deliver the jail of the county, according to law, of all prisoners therein. It tries all indictments found in courts of general sessions of the peace of the county where it is held, and which are properly sent to this court by order of the sessions; and the court of oyer and terminer may send indictments found therein (which are properly triable by the sessions) to the court of general sessions, to be tried.

Courts of oyer and terminer, for proper cause, may grant new trials in cases tried before them.

QUESTIONS ON THE PRECEDING.

When are courts of oyer and terminer held?
How many in each county in a year?
By whom are these courts held?
Can you enumerate the chief powers of this court?
Can courts of oyer and terminer grant new trials?

OF COURTS OF COMMON PLEAS.

The judges of the county courts in each county, or any three of them, (except in the city and county of New York, where one judge may hold the court) have power to hold

courts of common pleas in their respective counties, at such stated terms in each county as are fixed by statute. In the city of New York this court sits monthly.

Chief powers and duties. These courts have power to hear and determine according to law, all actions and causes of action, and all matters and things triable at common law, of every kind—with such exceptions, limitations and additions as are imposed or created by the laws and constitution of the State. These courts exercise certain powers conferred by statute over the estates of habitual drunkards, and other powers and duties specially conferred and imposed by law. They grant new trials. Issues of fact joined in these courts are tried by jury, in the same manner as in the circuit courts.

These courts have an appellate jurisdiction over courts of justice of the peace, in their respective counties (except in the city of New York)—and causes are removed from these courts to the courts of common pleas, by appeal and certiorari.

These courts have a seal in the custody of the clerk of the county, who is clerk of the court.

QUESTIONS ON THE PRECEDING.

By whom, and where are courts of common pleas held?
How are the terms of these courts fixed?
What are the principal powers of these courts?
How are issues of fact tried in them?
What is the appellate jurisdiction of these courts?
Who are clerks of these courts?
Have these courts respectively a seal?

OF COURTS OF GENERAL SESSIONS.

Any three judges of the county courts, in every county of the State, (except the city and county of New York,)

may hold the courts of general sessions therein; and when a sufficient number of judges does not appear, then one or more justices of the peace of the county may be associated with the judge or judges present. This court cannot be held without the presence of at least one judge, nor can it ever consist of more than five persons.

The time for holding these courts, in most of the counties, is fixed by law, at the same time with the courts of common pleas.

Chief powers and duties. These courts have power to inquire, by the grand jury, of all crimes and misdemeanors committed, or which are triable in their respective counties, and to hear, try and determine all crimes and misdemeanors, except those which are punishable with death, or imprisonment in the State prison for life.

They have power to hear and determine certain appeals from the orders of justices, to review the convictions of disorderly persons actually imprisoned, to continue or discharge the bonds and recognizances of persons bound to good behaviour, or to keep the peace, and to compel certain relatives of poor persons, and committees of the estates of lunatics, to support such persons, in certain cases, and in the manner prescribed by law.

They have power to bail persons, indicted in these courts, for any offence which they are authorized to try, and to discharge persons who have remained in prison without being indicted or tried, in certain cases provided by law. This court executes various other important powers and duties conferred and imposed by law.

The clerk of each county (except New York) is clerk of the court of general sessions held therein.

QUESTIONS ON THE PRECEDING.

By whom are courts of general sessions held?
At what times are these courts held?
Can you enumerate the chief powers of courts of general sessions?

In what cases may these courts bail persons indicted?
Who are clerks of these courts?

OF COURTS OF SPECIAL SESSIONS.

These are held in the several counties in the State (except New York) by any three justices of the county, or by two justices and a judge of the county courts. They have no stated terms, but are held at such times as offences properly triable by them are complained of before them.

Chief powers and duties. They have power to hear, try and determine charges for certain crimes arising within their respective counties; the chief of these are, petit larceny (charged as the first offence,) assault and battery (other than that committed riotously or upon a public officer in the discharge of his duties,) charges for poisoning, killing, or cruelly beating any animal—for racing animals in certain cases—for wilful trespasses—and a few other minor offences, enumerated by law.

The accused, when brought before these courts, may elect to be tried by them, or to be bound over to the higher criminal courts of the county; and if he elects to be tried by the court of special sessions, he may demand and have a trial by jury, in all cases.

Convictions in these courts, may be removed by the party convicted, to the supreme court, by writ of certiorari; and that court, when possessed of the cause, hears and determines it according to law.

OF COURTS OF JUSTICE OF THE PEACE.

Every justice of the peace may in the town for which he is elected, (and not out of it) hold a court for the trial of certain civil actions, jurisdiction of which is conferred on

him by law; and for this purpose he is vested with such necessary powers as are conferred on him by the statute defining them or possessed by courts of record.

In contested suits, a justice can in no case render judgment for a sum exceeding fifty dollars and costs of suit; but he may render judgments upon confession of a party to the amount of two hundred and fifty dollars.

These courts have no stated terms, but are held on the return days of process, or in pursuance of adjournment.

The judgments of these courts, may be removed by the party aggrieved by them, to the court of common pleas of the county in which they are rendered; and this is done by certiorari or appeal; by certiorari, where the debt or damages recovered, exclusive of costs, does not exceed twenty-five dollars, and by appeal where it exceeds that sum.

Upon the return day of process in courts of justice of the peace, the parties appear before the magistrate to set forth and defend their respective rights. The party bringing the action, is called *plaintiff;* the party against whom it is brought, is called *defendant.* The plaintiff states the complaint or cause of action he has against the defendant, either verbally or in writing—and this is called a *declaration;* the defendant puts in an answer, denying this, or showing matter of defence or set-off—and this is called *a plea.* When these allegations of the parties are finished, the cause is said to be at *issue*; it is then tried, or adjourned to some future day to enable the parties to prepare for trial. The trial may be by *jury,* if either party requires it; and in either case it proceeds by the examination of witnesses, and is decided according to law and the facts shown.

The determination or decision of the suit is called *the judgment*—which is rendered by the magistrate, and entered in a book called a *docket,* kept by him for that purpose.

QUESTIONS ON THE PRECEDING.

By whom are courts of special sessions held?
When are these courts held?
Can you enumerate the chief offences these courts are authorized to try?
What privileges has the accused when brought before these courts?
Is the accused entitled to a trial by jury?
In what court are the convictions in these courts reviewed?
What powers have courts of justice of the peace?
To what amount can they render judgment in contested suits?
To what amount can they render judgment upon confession?
When are courts of justice of the peace held?
Where are the judgments of these courts reviewed?
When does an appeal lie from their judgments?
In what cases are certioraris brought?
What are the parties in justices' courts called?
What is the plaintiff's statement called?
What is the defendant's answer called?
When is a cause "at issue?"
How does the trial of a cause proceed?
What is the determination of a cause called?
Where is the judgment entered?

OF ADMINISTRATIVE OFFICERS.

This is a very numerous class of officers; but we propose to treat briefly of a few of the principal ones only.

Five canal commissioners—three of whom are acting commissioners—are appointed by the legislature, and hold their office during its pleasure. They constitute a part of the canal board, and have the care and superintendence of the State canals.

Three canal appraisers—who are nominated by the governor, and appointed by him with the consent of the Senate. They appraise damages claimed against the State in favor

of individuals whose lands and property are appropriated by the public to the use of canals.

Superintendents of canal repairs—are appointed by the canal board, and in such numbers as the board deems necessary. They superintend the repairs of canals on the sections for which they are appointed.

Collectors of canal tolls—are appointed by the canal board, and hold their offices for one year—subject to be removed at any time by the board.

A mayor, in each of the cities of this State, who is appointed annually by the common councils thereof. In New York the mayor is elected by the people.

Three bank commissioners—who are nominated and appointed by the governor with the consent of the Senate. They hold their offices for two years, but are removable by the governor for misconduct. These commissioners visit the monied incorporations of the State which are made subject to their power, and examine their books and papers, thoroughly inspect their affairs, and make such inquiries as are necessary to ascertain their actual condition, and their ability to fulfil their engagements. The commissioners proceed against insolvent banks, in the manner directed by law.

QUESTIONS ON THE PRECEDING.

How many canal commissioners are there?
How many of these are acting commissioners?
How are canal commissioners appointed?
How long do they hold their office?
What powers have they?
How many canal appraisers are there, and how appointed?
What are their powers?
In what numbers are superintendents of repairs appointed?
By what body are they appointed?
What are their powers?
How are collectors of canal tolls appointed?
What is their term of office, and how removed?

How are the mayors of cities appointed ?
How many bank commissioners are there ?
How are they appointed ?
What is their term of office, and how removed ?
Can you enumerate the chief powers of bank commissioners ?

GENERAL PROVISIONS AND OBSERVATIONS, RELATIVE TO CIVIL OFFICERS.

No person can hold a civil office, unless he is a citizen of this State ; and he must have attained the age of twenty-one years, at the time of his election or appointment.

All officers *elected* by the people, (except those elected to supply vacancies,) enter upon the duties of their respective offices on the first day of January following the election at which they were chosen.

All officers who are *appointed*, (except the chancellor, justices of the supreme court, and circuit judges,) and who have duly entered upon the duties of their office, continue to hold the same (although their term may have expired) until a successor is duly qualified.

Each State officer enumerated in the preceding pages, is required, before he enters upon the duties of his office, to swear or affirm, that he will support the constitution of the United States, and of the State of New York, and that he will faithfully discharge the duties of his office, according to the best of his ability.

Every wilful neglect of a duty, enjoined by law upon a public officer, (where no special provision is made for its punishment,) is a misdemeanor, and is punishable by imprisonment in a county jail not exceeding one year, or by fine not exceeding two hundred and fifty dollars, or by both of these in the discretion of the court in which the offence is tried.

OF RESIGNATIONS.

The resignations of the governor, lieutenant governor, secretary of state, comptroller, treasurer, attorney general, surveyor general, and state printer, are made to the legislature. Those of the senators and members of assembly, are made to the presiding officers of their respective houses.

The resignations of all officers who are appointed by the governor alone, or by him with the consent of the senate, are made to the governor; as also those of sheriffs, coroners, and county clerks.

District attornies resign to the courts that appointed them; justices of the peace, to the supervisor of their town; commissioners of deeds, to the first judge of their county; and all other officers resign to the body, board, or officer that appointed them.

OF VACANCIES.

Every office is declared by law to be vacant, on the happening of either of the following events before the expiration of the term of such office, viz. 1. The death of the person holding it. 2. His resignation. 3. His removal from office. 4. His ceasing to be an inhabitant of the State, or if the office be a local one, then his ceasing to be an inhabitant of the district, county, town, or city, for which he was chosen, or appointed, or within which the duties of his office are required to be discharged. 5. His conviction of an infamous crime, or of any offence involving a violation of his oath of office. 6. His neglect or refusal to take the oath of office, or to give or renew any bond required by law, within the time prescribed by law. 7. The decision of a competent tribunal declaring void his election or appointment.

QUESTIONS ON THE PRECEDING.

Who can hold a civil office?

At what time do *elective* officers enter upon their duties?

How long do officers that are *appointed*, continue to exercise their office?
What are the exceptions to this rule?
What is the oath of office of the preceding officers?
When must this oath be taken?
How is an officer punished for wilful neglect of duty?
What officers resign to the legislature?
To what body do senators and members of assembly resign?
To whom do officers appointed by the governor resign?
To whom do sheriffs, coroners, and county clerks resign?
To whom do district attornies resign?
To whom do justices of the peace resign?
To whom do commissioners of deeds resign?
How do all the other civil officers resign?
Can you enumerate the events, either of which render an office vacant?

OF THE CIVIL DIVISIONS OF THE STATE.

The State is divided into fifty-eight counties. It is also divided into eight districts, which are called senate districts; and it is again divided in thirty-three districts for the election of representatives in the Congress of the United States.

The counties of the State are divided into towns, and there are also minor divisions in point of territory, of cities, and incorporated villages.

OF COUNTIES.

Each county in the State is for certain purposes, and to a certain extent, a body corporate; and as such, has capacity to sue and be sued, in the manner prescribed by law; to purchase and hold lands within its limits, and for the use of its inhabitants; to make such contracts, and to purchase and hold such personal property as may be necessary to the exercise of its corporate or administrative powers, and to make such orders for the disposition, regulation, or use of its cor-

porate property, as may be deemed conducive to the interests of its inhabitants.

All acts or proceedings, by or against a county in its corporate capacity, are had and done in the name of the board of supervisors.

The powers of a county, as a body politic, are exercised only by the board of supervisors thereof.

QUESTIONS ON THE PRECEDING.

Into how many counties is the state divided?
How many senate districts are there?
How many congressional districts?
Into what are counties divided?
What minor divisions are there?
What are the corporate rights of a county?
In what name are proceedings, by or against a county, in its corporate capacity, had?
How are the powers of a county, as a body politic, exercised?

OF COUNTY OFFICERS.

The principal civil officers in the counties of this State are the following; sheriff, coroners, district attorney, judges of the county courts, county clerks, surrogate, superintendants of the poor, county treasurer, board of supervisors, grand jurors, county sealer, auctioneers, and inspector of commodities. Of these in their order.

OF THE SHERIFF.

There is one sheriff in each county in the State, who is chosen by the electors of his county, once in every three years, and as often as vacancies occur, and he officiates until his successor is duly qualified; but is subject to be removed by the governor, upon charges preferred against him, after a hearing of both sides. He must reside in the county where his duties are to be executed.

Privileges and disabilities. He is exempt from military duty.

He can hold no other office during his term, and is ineligible to the same office for three years ensuing the termination of his office. He cannot, during the continuance of his office, practice as an attorney, solicitor, or counsellor.

Chief powers and duties. These are numerous and extensive. The sheriff is principal conservator of the public peace; and for this purpose, and the pursuit of felons, he may command all the people of the county to assist him.

He executes, within his county, all writs, and process for the arrest of the person of a defendant or party, issued out of the courts of record of this State. He executes all legal executions directed to him from such courts, whether against the body, or the goods and lands of a party, and all other writs, and process, properly directed to him. He has power to appoint an under sheriff, (who holds during the sheriff's pleasure) and so many deputies as he may deem proper.

The sheriff and under sheriff may, by writing, depute persons to perform particular acts.

The sheriff has the custody of the jails and prisons of the county, and of the prisoners in them, and he may appoint keepers of such jails and prisons. He is an officer of the court of chancery, and executes the process of that court.

It is his duty to keep an office in a proper place in the city, or village, in which the county courts of his county are held, and to keep it open from nine o'clock to twelve in the forenoon, and from two to five in the afternoon, every day, except Sundays and the day of the anniversary of American independence. Every notice, or paper required to be served on a sheriff, may be served by leaving it at his office during the hours his office is required to be kept open.

QUESTIONS ON THE PRECEDING.

Can you enumerate the principal civil officers in a county?
In what manner is the sheriff elected?

What is his term of office?
How may the sheriff be removed?
Where must he reside?
What are the sheriff's disabilities?
Can you enumerate some of his principal powers and duties?
How are the under sheriff and deputies appointed?
How long do they hold their office?
How many deputies may the sheriff appoint?
What care has the sheriff of the jails and prisons of his county?
Where is he required to keep his office?
During what hours is his office required to be kept open?
In what manner are papers served upon the sheriff?

OF CORONERS.

There are four coroners for every county in the State, (except in New York, where there is only one,) and they are elected at the same time and in the same manner with the sheriffs, and hold their office for three years, but are not restricted from holding any other office at the same time. They reside and execute their powers within the county for which they are elected.

Chief powers and duties. Upon the happening of a vacancy in the office of both sheriff and under sheriff, a coroner may be designated by the first judge of the county, to execute the office of sheriff.

When the sheriff is a party in any suit, all the process in such suit is executed by the coroner to whom it is delivered with the same authority and in the same manner as sheriff.

The office of coroner is, however, created with especial reference to other and more important powers and duties; and when any person has been slain, or has suddenly died, or has been dangerously wounded, it is the duty of the coroner to investigate the circumstances of the case in the manner prescribed by law. For this purpose he goes to the place, and summons not less than sixteen, nor more than twenty-three, qualified jurors, to appear before him to make inquisi-

tion concerning the death or wounding. He swears the jury (which must consist of twelve at least) to inquire into the matter and all the circumstances attending it; and he may issue subpœnas for witnesses, who are supposed to know any thing concerning the matter, and he may subpœna a surgeon or physician to appear and testify before the jury. The jury, after an examination of the facts and circumstances of the case, upon the concurrence of at least twelve of their number, deliver to the coroner their inquisition in writing, signed by them, in which they certify how, where, and when, the person dead or wounded, became so, who such person was, and who was guilty of the act, together with the circumstances attending the transaction.

If the jury find that murder, manslaughter, or an assault and battery, has been committed, the coroner binds over the witnesses to attend the next criminal court of the county, and issues process for the apprehension of the person charged with the offence. The coroner may examine the accused and witnesses, and if so, he reduces the examination to writing, and returns it with the inquisition found by the jury to the next criminal court of the county.

QUESTIONS ON THE PRECEDING.

How many coroners are there for a county?
In what manner are they elected?
What is their term of service?
Where must they reside and execute the duties of their office?
In what case, and by whom, may a coroner be designated to act as sheriff?
When the sheriff is party to a suit, by whom is the process served?
Can you enumerate the principal powers and duties of coroners?
Suppose a coroner's jury find that a murder has been committed?
What is the least number of which the jury can consist?
How many must concur in order to find an inquisition?

OF THE DISTRICT ATTORNEY.

There is a district attorney for each county in the State, who is appointed by the judges of the county courts of his county, and holds his office for three years, but may be sooner removed by the court which appointed him. He must reside in the county where his duties are executed, and must be a counsellor at law of the supreme court; but if there is no counsellor in the county who will accept the office, then an attorney at law may be appointed.

Chief powers and duties. He attends the courts of oyer and terminer and jail delivery, and general sessions, which are held from time to time in his county, and conducts all prosecutions for crimes and offences, which are to be tried in such courts. He prosecutes for all penalties and forfeitures, exceeding fifty dollars, which are incurred in his county, and for which no other officer is by law directed to prosecute, and pays over all monies collected or received by him officially, to the county treasurer, giving a written account thereof, verified by his oath.

It is his duty (if required by the grand jury) to attend them for the purpose of examining witnesses in their presence, or of giving them advice upon any legal matter before them. He is allowed at all times to appear before the grand jury, on his request, to give information relative to any matter cognizable by them; but he is not allowed to be present while the grand jurors are expressing their opinions, or giving their votes upon any matter before them. He issues subpœnas for witnesses in support of public prosecutions.

OF THE JUDGES OF THE COUNTY COURTS.

There are a first judge and four judges of the county courts in each county in the State, (except in the city and county of New York.) They are nominated by the governor, and appointed by him with the consent of the Senate, and hold their offices for five years; but may be removed

by the Senate, on the recommendation of the governor, for causes to be stated by him.

Powers &c. It is already seen that these officers hold courts of common pleas, in their respective counties, as also courts of general sessions; and that they assist in holding courts of oyer and terminer. They exercise various powers in their individual capacities, as judges, in granting insolvents' discharges, entertaining jurisdiction in cases of forcible entry and detainer, taking acknowledgments of deeds, taking affidavits, and other powers of like nature, too numerous to be detailed here.

QUESTIONS ON THE PRECEDING.

How is the district attorney of a county appointed?
What is his term of office, and how is he removed?
What are his qualifications?
Suppose no counsellor at law will accept the office?
What courts does the district attorney attend?
Can you enumerate some of his principal duties?
When and for what purpose does he attend the grand jury?
How many, and how are, judges of the county courts appointed?
What is their term of service?
By what power and in what manner may they be removed?
What courts do these judges hold and assist to hold?
Can you enumerate some of the powers these judges exercise in their individual capacity?

OF COUNTY CLERKS.

There is one clerk for each county in the State, who is chosen by the electors of the respective counties once in every three years, and as often as vacancies occur. He is subject to be removed from office by the governor, upon charges made against him, with an opportunity of being heard in his defence.

Chief powers and duties. The clerk of each county has

the custody of all the books, records, deeds, parchments, maps, and papers, deposited or kept in his office, and he ought carefully to attend to the arrangement and preservation of them. It is his duty to provide (at the expense of the county) proper books for recording deeds, mortgages, and other conveyances, and for recording all other papers required by law to be recorded. He must appoint a proper person for a deputy clerk, who holds during his pleasure, and who in case the clerk is absent from the county, or by reason of sickness, or other cause, is incapable of discharging his duties, performs all the duties of the clerk, except that of deciding upon the sufficiency of the sureties of any officer. When the office of clerk becomes vacant, the deputy performs all the duties of the office, and receives all the emoluments of it until a new clerk is elected.

It is the duty of the clerk when a commission or supersedeas is received at his office, to give notice to the person named in it. He reports to the comptroller, by the first day of January in each year, the names of religious societies incorporated in his county during the preceding year.

Except in the city and county of New York, the county clerk is clerk of the circuit courts, courts of oyer and terminer, common pleas, and general sessions, held within his county; and he draws the grand and petit jurors for these courts in the manner prescribed by law.

QUESTIONS ON THE PRECEDING.

How is the county clerk chosen?
What is his term of service?
In what manner and by whom may he be removed?
Of what has the clerk the custody?
What books does he provide and for what purpose?
Can you enumerate the chief duties of the county clerk?
By whom is the deputy clerk appointed?
What is his term of service?
Suppose the office of clerk becomes vacant?
Of what courts is the clerk of the county, clerk?

OF THE SURROGATE.

There is one surrogate for each county, who is nominated by the governor and appointed by him, with the consent of the Senate, and holds his office for four years.

He cannot be counsel, solicitor, or attorney, for or against any executor, administrator, guardian, or minor, in any civil action, over whom or whose accounts, he could have any jurisdiction by law; nor can he officiate where he is interested.

Chief powers and duties. He has power to hold courts within the limits of his county, which are open at all times for the hearing of any matter within his jurisdiction—and particularly on Monday in each week, when it is his duty to attend at his office to execute his powers and duties. The surrogate has the power to take the proof of wills of real and personal property—to grant letters testamentary, and of administration—to direct and control the conduct and to settle the accounts of executors and administrators —to enforce the payment of debts and legacies, and the distribution of the estate of the intestate—to order the sale and disposition of the real estate of deceased persons—to appoint guardians for minors—to remove them, and to direct and control their conduct and settle their accounts—and to cause the admeasurement of dower to widows.

He can issue process to compel the attendance of witnesses, and punish contempts.

From the decisions and orders of the surrogate, appeals may be brought to the supreme court in some cases, and in others to the chancellor.

QUESTIONS ON THE PRECEDING.

How is the surrogate appointed?
What is his term of service?
What are his disabilities?
When may he hold courts?

When are his courts open?
On what days is he required to hold courts particularly?
Can you enumerate his principal powers?
Are there appeals from the surrogate's decisions, if so to what courts?

OF SUPERINTENDENTS OF THE POOR.

These are appointed by the board of supervisors of their respective counties, (in number not less than three nor more than five,) and hold their offices for one year, and until others are appointed in their places.

Chief powers and duties. A majority of the superintendents are competent to transact business. They are a corporation, and have the general superintendence and care of the county poor. When directed by the supervisors, they are required to provide suitable places for keeping the poor; to rent a tenement and not exceeding fifty acres of land, and to maintain the poor in such place.

They make rules and regulations for the government and good order of the places where the poor are kept, and for the management and relief of the poor persons there—and these rules require the sanction of a majority of the judges of the county courts.

They employ suitable keepers of the places where the poor are kept, and also all necessary officers and servants, who are authorized to exercise such power as is necessary in the management of the same. The superintendents decide disputes that arise concerning the settlement of poor persons, upon a hearing had before them.

They draw on the county treasurer for all necessary expenses incurred in the discharge of their duties, they render an account to the board of supervisors of their county, at their annual meeting, of all monies received and expended by them, and of all their proceedings; and are required to

pay over all monies remaining in their hands, within fifteen days after the expiration of their office, to the county treasurer, or to their successors. It is the duty of the superintendents, during the month of December in every year, to make a report to the Secretary of State. This is done in the form directed by the secretary, and contains a detailed account of the proceedings of the superintendents.

QUESTIONS ON THE PRECEDING.

In what numbers may superintendents of the poor be appointed?
What authority appoints them?
How long do they hold their office?
What number is competent to transact business?
What are their duties in regard to the care of the poor?
What rules are they authorized to make?
What disputes are they authorized to decide?
On whom do they draw for all necessary expenses?
To whom do the superintendents render an account, and when?
In rendering an account what do they state?
When their office expires, to whom do they pay over the monies remaining in their hands?
When and to whom do they report?
What does their report contain?

OF THE COUNTY TREASURER.

There is a county treasurer in each of the counties in the State, who is appointed by the board of supervisors, and holds his office during the pleasure of the board. He is required to be a reputable freeholder of the county for which he is appointed.

Chief powers and duties. He receives all monies belonging to the county, derived from whatever source, together with all monies belonging to the State which are by law directed to be paid to him, and he pays and applies them in the manner directed by law. It is his duty to keep a book

(which is provided by the county) in which he keeps a just and true account of the receipt and expenditure of all monies that come to his hands. By the first day of March in each year, it is his duty to transmit to the comptroller of the State, a statement of all monies received by him during the preceding year for penalties belonging to the people of the State, and to pay at the same time to the treasurer of the State, the amount of such penalties. The accounts of the county treasurer are audited and allowed by the board of supervisors of the county, at their annual meeting, or at such other times as they direct.

Upon his death, resignation, or removal from office, all the books, papers, and monies belonging to his office, are delivered to his successor, upon his oath, (if living,) or if dead, upon the oath of his executor or administrator.

QUESTIONS ON THE PRECEDING.

How is the county treasurer appointed?
How long does he hold his office?
What are his qualifications?
What monies does he receive?
What account is he required to keep?
What statement does he transmit to the comptroller, and when?
When, and by whom are the accounts of the treasurer audited?
In what manner are the books, papers, and monies of his office, delivered to his successor?

OF THE BOARD OF SUPERVISORS.

The supervisors of the several cities and towns in each of the counties in the State, meet annually in their respective counties, for the transaction of business; they are also authorized to hold special meetings, and to adjourn from time to time, as they deem necessary.

Chief powers and duties. When assembled as a board, they have power to make orders concerning the corporate

property of the county, to examine and settle all accounts chargeable to the county, and to direct that such sum be raised as will defray them. The board, except in some special cases, where counties are excepted, also audits accounts of town officers and other persons, against their respective towns, and directs the raising of the sums of money necessary to defray them.

The meetings of the board are public, and all persons may attend them. For the transaction of business, a majority of the supervisors of the county constitute a quorum, and questions arising on matters before them, are decided by a majority of the votes of the supervisors present.

Chairman. At their annual meeting, they choose one of their number as chairman, who presides at all their meetings held during the year; and in his absence a temporary chairman is chosen.

The chairman administers all oaths that are requisite in the transaction of business before the board.

Clerk. The board, as often as necessary, appoints some suitable person to be their clerk, who holds his office during their pleasure.

It is the duty of the clerk to record all the proceedings of the board, and their resolutions and decisions on questions of raising, or payment of, monies. When required by any member of the board, it is his duty to record the vote of each supervisor, on any question submitted to them, and to preserve and file all accounts acted upon by the board.

The books and records of the the board are deposited with the clerk, and are open to the inspection of all persons.

The clerk's compensation is fixed by the board, and paid by the county.

QUESTIONS ON THE PRECEDING.

What officers constitute the board of supervisors?
When does the board assemble?

Can they hold special meetings?
What accounts do the board examine and settle?
What monies can they direct to be raised?
Are the meetings of the board public, or private?
How many supervisors constitute a quorum for the transaction of business?
How are questions arising on matters before them determined?
How is the chairman of the board appointed?
What are the powers and duties of the chairman?
When is a temporary chairman chosen?
How is the clerk of the board appointed?
How long does he hold his office?
Can you enumerate the duties of the clerk?
With whom are the books and records of the board deposited?
Are these subject to inspection?
How is the clerk's compensation fixed and paid?

OF GRAND JURORS.

Although these are not strictly county officers, yet their duties are of so great importance in the administration of our criminal law, that they deserve a brief notice. They are the source of nearly all criminal charges preferred against individuals—and through whom is presented for trial, the highest and lowest grade of offenders against the peace of the State. Formerly the sheriff of each county selected the grand jurors from the body of the county—but this practice having been found dangerous, and productive of an unequal distribution of the burden of these duties among our citizens, another and better mode has been adopted for their selection.

Mode of selection, &c. The supervisors of the several counties in the State, (except New York,) at their annual meeting, prepare a list of the names of 300 persons to serve as grand jurors for the criminal courts of the county during the ensuing year, and until new lists are furnished. In preparing these lists, such persons only are selected, as are

qualified petit jurors, and are men of intelligence, of approved integrity, fair character, and sound judgment. These lists contain the names of the jurors at length, their respective occupations and places of residence, and are certified by the clerk of the board, and filed in the clerk's office of the county within ten days after the first day of the meeting of the board. The clerk of the county writes the names of the persons in these lists, with their additions and places of residence on separate pieces of paper, and folds them up and deposits them in a box; from which they are drawn as occasion requires, by the county clerk, in the presence and with the assistance of the sheriff, and a county judge, or justice of the peace. Twenty-four persons so drawn constitute a grand jury for the court of oyer and terminer, or the general sessions of the county; and are summoned to attend such court by the sheriff.

The grand jury attend the court for which they are summoned, appear in open court and are sworn, receive a charge from the court in regard to their duties; and one of their number is appointed foreman by the court.

The foreman administers oaths to persons and witnesses preferring complaints, and supporting the same before the jurors.

They may appoint a *clerk* out of their number, who preserves the evidence given before them, and keeps the minutes of their proceedings—and these he delivers to the district attorney of the county, when directed by the grand jury.

Thus organized, the jury proceed to make inquiries of matters complained before them, and if they see cause, they find a bill of indictment, by the concurrence of at least twelve of their number; and when so found, the foreman certifies under his hand that such indictment is a true bill. Indictments so found, are presented by the foreman to the court, in the presence of the jurors, and are there filed and remain as public records.

It is a misdemeanor for a grand juror to disclose that a bill is found against any person for a felony, who is not in confinement, until he has been arrested thereon.

QUESTIONS ON THE PRECEDING.

How were grand jurors formerly selected?
In what manner are they now selected?
Who prepares the lists?
What persons are placed upon the lists?
What do these lists contain, and where are they filed?
Can you tell how the county clerk proceeds?
How are grand jurors drawn?
How many constitute a grand jury?
By whom are grand jurors summoned?
Who appoints their foreman?
What are the duties of the foreman?
How is their clerk appointed?
What are the duties of their clerk?
What is the business of the grand jury?
How many must concur to find a bill?
Who certifies the bill when found?
How are indictments presented to the court?
What is then done with them?
Can you name what may be a misdemeanor in a grand juror?

OF THE COUNTY SEALER.

There is a county sealer for each county in the State, who is appointed by the board of supervisors, and holds his office during their pleasure.

There is a standard of weights and measures established by law; and all contracts for work, or for any thing sold or agreed for, are construed to be made in reference to this standard.

The original standards, made conformable to law, are deposited in the office of the State sealer.

Copies of the original standards, for general use, are de-

posited by the State sealer, at the expense of the county, in the offices of the county sealers, who are responsible for the preservation of them, and compare them once in five years.

The county sealer receives from the state sealer copies of the original standards, to be furnished by him to the several town sealers, at the expence of their respective towns; and these are compared once in three years with the copies in the office of the county sealer.

QUESTIONS ON THE PRECEDING

By whom is the county sealer appointed?
How long does he hold his office?
Is there a standard of weights and measures established?
Where are the original standards deposited?
Where are copies of the original standards deposited?
How often are they compared?
What copies does the county sealer receive, and for what purpose?
How often are these compared with those of the county sealer?

OF AUCTIONEERS.

An auctioneer was formerly an officer appointed by the governor and senate, and held his office for one year. He can scarcely now be regarded as a public officer.

By a statute passed in the year 1838 it was declared that any citizen of this state, may become an auctioneer, and may legally transact the business and perform the duties of an auctioneer in the county in which he resides, on executing and depositing with the comptroller a bond in the penalty prescribed by law, with sureties, for the payment of the auction duties.

The same statute further provides that whenever an auctioneer shall be found guilty before any police or mayor's court or court of criminal jurisdiction in this state of fradu-

lent practices, he shall be forever afterwards disqualified from exercising the rights or pursuing the business of an auctioneer, and shall also be deemed guilty of a misdemeanor, punishable by fine and imprisonment.

Any person who shall at any time after such conviction transact the business of an auctioneer—and any person who shall transact such business, without having first complied with the provisions of this statute by giving the requisite bond, shall for each offence be deemed guilty of a misdemeanor punishable by fine and imprisonment.

Every species of personal property which is exposed to sale by public auction (except the articles hereafter enumerated) is, when struck off, subject to certain duties imposed by law.

Exemptions. No duties are chargeable upon ships and vessels, utensils of husbandry, horses, neat cattle, hogs and sheep, nor any articles of the growth and produce or manufacture of this State, (except distilled spirits.) Fabrics of cotton, wool, hemp, and flax, manufactured in the United States, are also exempt from duties.

Goods sold under particular circumstances, are also exempt; as goods of the State, or United States; goods sold under the judgment or decree of any court, or under seizure by any officer, for a penalty, or distress for rent, or belonging to the estate of a deceased person, and sold by some one legally authorized, or the goods of an insolvent sold pursuant to law by his assignees, or goods damaged at sea, and sold within twenty days after landing, for the owner's benefit.

Powers, &c. All sales at public auction of goods on which duties are payable, must be made by an auctioneer.

In case of the auctioneer's absence, or inability to attend, for certain enumerated causes, he may employ a partner or clerk, to hold the auction in his name and behalf.

Auctioneers are held strictly to the performance of their various duties, and are required to state the account of their sales quarterly, and upon oath.

OF INSPECTORS OF COMMODITIES.

It is of the utmost importance in commercial intercourse and business, that the purchaser of commodities from the agriculturalist and manufacturer, before he buys at the prices regulated in the fair course of trade, can be assured that the article he buys is sound and merchantable. The wisdom of our laws has insured this to the purchaser, through the medium of inspectors of various commodities.

These inspectors are appointed by the governor, with the advice and consent of the senate, in various numbers, in the cities and counties of the State. Some are fixed by law, and others are appointed in the discretion of the appointing power, where they are deemed necessary. They hold their offices for two years.

Every inspector is required by law to inspect all articles subject to his inspection, upon request, and without delay, and is punishable by severe penalties for neglect, fraud or mal-practice in the discharge of his duties.

QUESTIONS ON THE PRECEDING.

Who may become an auctioneer and how?
Are frauds committed by auctioneers punishable?
What articles of personal property are subject to duties?
Can you enumerate those exempt from duties?
By whom are sales at public auction conducted?
Suppose the auctioneer is absent, or unable to attend for certain reasons?
How often do auctioneers state their accounts, and in what manner?
What is the object of the office of inspector of commodities?
By what authority are inspectors of commodities appointed?
In what numbers are they appointed?
How long do they hold their office?
What are the duties of inspectors?
For what are they subject to penalties?

OF TOWNS.

Corporate powers. Every town in the state is for certain purposes, and to a certain extent, a body corporate; and in that capacity may sue, and be sued, in the manner prescribed by law. A town may purchase and hold lands within its limits; can make contracts, and hold personal property, as far as is necessary in the exercise of their legal powers, and may make such orders for the regulation and use of its personal property as are deemed conducive to its interests. These are the extent of the corporate powers of a town, and they are designed to be no more full than is necessary for the prudent, safe, and convenient management of the affairs of its inhabitants, in regard to their corporate well being.

Town meetings. The citizens of the several towns, qualified to vote for elective officers, annually assemble and hold town meetings; and when so assembled, they have power, not only to elect town officers, but also to determine what number of assessors, constables, and pound masters shall be chosen for the ensuing year; to direct such sum as they deem necessary to be raised in their town for the support of common schools for the ensuing year; to direct the commencement or defence of suits and controversies in which the town is involved or interested, and a sum to be raised for conducting the same.

They can give directions for the exercise of their corporate powers, and make provisions and allow rewards for the destruction of noxious weeds; they may establish and maintain pounds, fix the compensation of fence viewers and collectors, (the latter being confined to between three and five per cent.)

At such meetings, prudential rules and regulations may be made from time to time, for improving the lands held by the town, in its corporate capacity, and concerning the fences upon the same. The meeting also has power to make rules and regulations concerning the sufficiency of

fences in the town, to determine the time and manner in which horses, cattle, and sheep may be permitted to go at large on highways, and to make rules concerning impounding animals. To all these rules, (except those that relate to the keeping and maintaining of fences,) penalties may be affixed by the meeting, but cannot exceed twelve dollars and fifty cents for each offence; and these are applied, when received, as is deemed by the meeting most conducive to the interest of the town.

They may raise any money that may be necessary to defray any charges that exist against the overseers of the poor; and the electors of a town that is bound to support its poor, may at their annual meeting direct a sum to be raised sufficient for the support of the poor during the ensuing year.

Electors are privileged from arrest on civil process, during town meeting days.

QUESTIONS OF THE PRECEDING.

Can you enumerate the corporate powers of a town?
How often are town meetings held?
Who can vote at town meetings?
When are town officers elected?
How is the number of assessors, constables, and pound-masters, determined?
Can town meetings direct monies to be raised for the support of common schools?
How are the commencement and defence of suits in which the town is concerned, directed?
Cannot you enumerate the other powers that may be exercised at town meetings?
What amount of penalty can they affix for a violation of their rules?
What are the privileges of electors during town meeting days?

OF TOWN OFFICERS.

These are a supervisor, a town clerk, assessors, a collector,

overseers of the poor, commissioners of highways, commissioners of common schools, inspectors of common schools, constables, a town sealer, overseers of highways, pound masters, fence viewers, and commissioners of excise, board of auditors of town accounts, commissioners of deeds.

OF THE SUPERVISOR.

The supervisor is chosen annually by the electors of the town, and holds his office for one year, and until a successor is duly qualified. He is subject to a penalty of $50 for refusal to serve.

Chief powers, &c. He receives and pays over the principal monies raised by the town for defraying town charges, and keeps a true account of all monies that come to his hands by virtue of his office, in a book, provided at the expense of the town—and which he delivers to his successor. He is one of the inspectors of elections, and is chairman of the board, and one of the board of auditors of town accounts. He prosecutes in proper form, for certain penalties given by law for the use of the town.

On Tuesday preceding town meeting, the supervisor's accounts are audited by the justices of the town, and town clerk, for the disbursement of all monies received by him in virtue of his office; at which time, the justices and clerk enter a certificate in his book of accounts, by which the state of them at the time of settlement is shown.

It is his duty to attend the meetings of the board of supervisors of the county, to receive all accounts presented to him against his town, and to lay them before the board at their next meeting. It is also his duty to lay before the board such copies of entries concerning monies to be raised in his town, as shall be delivered to him by the town clerk; and whenever required by the surveyor general, to cause a survey to be made of the bounds of his town, and to transmit to him a map thereof.

QUESTIONS ON THE PRECEDING.

Can you enumerate the town officers?
How is the supervisor chosen?
What is his term of service?
Suppose he will not take upon himself the duties of his office?
What accounts does he keep?
Of what boards is the supervisor a member?
For what penalties does he prosecute?
When, and by whom are the accounts of the supervisor audited?
What sort of certificate is given?
Can you enumerate the duties of the supervisor?

OF THE TOWN CLERK.

The town clerk is chosen by the electors of the town, at their annual meeting, and holds his office for one year, and until a successor is duly qualified. He is subject to the same forfeiture as the supervisor, in case of refusal to serve.

Chief powers and duties. He has the custody of all the books, records, and papers of his town, and he files all certificates of oaths, and other papers required by law to be filed in his office. Copies of all papers filed with him as clerk, and those filed with him as clerk of the commissioners of common schools, and transcripts from the books of record, certified by him, are evidence in all courts, the same as if the originals were produced. He is one of the inspectors of elections for his town, clerk of town meetings, one of the board of auditors of town accounts, and clerk of the commissioners of common schools.

It is his duty to transcribe in the book of records of the town, the minutes of the proceedings of every town meeting, and to enter in such book every order or direction, and all rules and regulations made at town meetings. He delivers to the supervisor before the annual meeting of the board of

supervisors of the county, in each year, certified copies of all entries of votes for raising monies, made after the meeting of the last board, and recorded in his book; and immediately after the qualifying of any constables of his town, he returns to the clerk of the county, such constables' names.

QUESTIONS ON THE PRECEDING.

How is the town clerk elected, and what is his term of service?
To what penalty is he subject, in case of refusal to serve?
Of what has he the custody?
How is evidence given of papers and records in his office?
In what other capacities does the town clerk act?
Can you enumerate his chief duties?

OF ASSESSORS.

These are chosen at the annual town meeting, by the electors of the town, in number not less than three, nor more than five; and hold their office for one year, and until successors are qualified. They forfeit to the town the same sum as the supervisor, in case of refusal to serve.

Chief powers and duties. Assessors are, by virtue of their office, fence viewers, and inspectors of elections in their respective towns.

Their chief powers and duties consist in the assessment and valuation of the real and personal property of the inhabitants of the town, for the purpose of taxation, and this assessment should be just and equal. The assessors make out a list or roll, containing the names of all the taxable inhabitants of the town, and for the purpose of ascertaining the correct value of each man's property, they in general call on each inhabitant, and make proper inquiries for that purpose. After the valuation of each man's real and per-

sonal property is set down, and the list is completed, (which must be done by the first day of August, in every year,) one fair copy is made of it, and left with one of their number, and notice of this fact is put up in three or more public places of the town.

This copy is subject to examination by the inhabitants of the town, for twenty days, at the expiration of which, the assessors meet at a certain day and place, also specified in the notice, to review their assessments on the application of any person who conceives himself aggrieved.

This application is made by the aggrieved person on affidavit, showing that the value of his real property does not exceed a certain sum, to be mentioned in the affidavit; or that the value of the personal property owned by him, after deducting his debts, does not exceed a certain sum to be also specified; and upon this being done on this application, (or during the making out of the assessment,) the assessors are bound to place the sums sworn to, in their roll, as the true valuation of the individual's property. The assessment may also be corrected by other proof (made to the assessors' satisfaction) that it is erroneous.

The roll being thus completed, the assessors, or a majority of them sign it, and attach their certificate thereto, (the form of which is given by statute,) and return it before the first day of September, in every year, to the supervisor of the town, who delivers it to the board of supervisors at their next meeting.

QUESTIONS ON THE PRECEDING.

How are assessors chosen?
What may be their number?
How long do they hold their office?
What sum do they forfeit in case of refusal to serve?
What are they by virtue of their office?
In what do their chief powers and duties consist?
How do the assessors proceed in making an asessment?

When must their list be completed?
When their list is complete, what proceeding is then taken?
In what manner does a person aggrieved by their assessment, obtain relief?
How is the roll when completed, signed, and disposed of?

OF THE COLLECTOR.

There is one collector for every town, who is chosen by the electors at their annual town meeting, and who holds his office for one year, and until his successor is qualified.

Chief powers and duties. After having entered into the requisite bond, with surety, and taken the oath required by law, the collector receives a tax list with a warrant annexed, from the board of supervisors of the county, and he then proceeds to collect the taxes mentioned in his list, of the several individuals therein named; and for that purpose it is made his duty to call at least once on the person taxed, at his usual place of residence, if in his town, and there to demand payment of the tax charged upon the individual's property.

In case of neglect or refusal to pay the tax imposed and demanded, the collector levies it by distress and sale of the goods and chattels of the person assessed, or of any goods in his possession within the collector's district, to whomsoever they may belong. The collector has various other powers and duties, too numerous to be here detailed, and he is held to a rigid observance of them as prescribed by law.

OF OVERSEERS OF THE POOR.

There are two of these for each town, elected at the annual town meeting, and who hold their office for one year, and until others are chosen in their places; in case of refusal to serve, an overseer forfeits to the town $50.

The superintendence and the relief of the poor of the

town, are intrusted to these officers, and their powers and duties are defined by statute.

In some counties a system has been adopted of maintaining the whole poor at a poor house erected and supported by the county. In such counties, the poor are a charge upon the county; but where this is not the case, each town in general is bound to the support of the poor within its limits; and in this latter case, the care and direction of this relief, the determination of the objects of it, and the disbursing of monies for that purpose, devolve upon the overseers of the poor of the town where such poor persons are chargeable. This may be regarded an office of humanity, as well as of law, and in discharging the duties of it, the overseer should treat with reasonable indulgence, and tender care, that wretched class of his fellow beings whose lives and liberties misfortune has placed under his control, and of whose comfort the law has made him the especial guardian.

It may not be amiss to add here, that the father, mother, and children (who are of sufficient ability) of a poor person, who would otherwise be chargeable to the town, or county, are bound to relieve and maintain such poor person at their own expense, and in the manner to be directed by the overseers of the poor of the town where such poor person may be; and this relief from the relatives, can be compelled by the overseers; so that no poor persons whose relations, of the class before named are able to support them, can properly become chargeable to the public.

QUESTIONS ON THE PRECEDING.

How is the collector of a town chosen?
What is his term of service?
From whom does he receive a tax list?
How does the collector proceed in the collection of taxes?
Suppose the tax is not paid upon demand?
How many overseers of the poor are there in a town?

In what manner are they elected?
How long do they hold their office?
Suppose they refuse to serve?
What system has been adopted in some counties for the maintenance of the poor?
Where this system is not adopted, how are the poor maintained?
What is the duty of the overseers of the poor?
What relations are liable to maintain a poor person, who would otherwise be chargeable to the town?
By whom can this relief be compelled?

OF THE COMMISSIONERS OF HIGHWAYS.

There are three of these chosen by the electors of the town, at their annual town meeting, and they hold their office for one year, and until their successors are qualified. They are also subject to a penalty of $50, for refusing to serve.

Powers, &c. They are, by virtue of their office, fence viewers of their respective towns. They have the care and superintendence of the highways and bridges in their respective towns; they direct the repairing of roads and bridges, and regulate roads already laid out; they may alter them, and cause certain roads to be ascertained, described, and entered upon record of the clerk's office of the town. They direct the repairing of highways, and the bridges erected over streams intersecting highways.

The commissioners divide their respective towns into as many road districts as are deemed convenient, and these are entered in the town book in the clerk's office; and to each of these districts they assign such of the inhabitants liable to work on highways as they deem proper. They direct the overseers of highways, when necessary, to warn persons assessed to work on the highway, and to come with such implements, teams, &c. as they order.

The commissoners have power, under certain rules and restrictions imposed by statute, to lay out on actual survey, such new roads in their respective towns as they deem necessary and proper; and to discontinue old roads when it appears to them on the oaths of twelve freeholders of the town, that they have become unnecessary.

QUESTIONS ON THE PRECEDING.

How many commissioners of highways are there for each town?
How are they elected?
What is their term of service?
To what penalty are they subject, in case of refusal to serve?
What are they by virtue of their office?
What jurisdiction have they over the roads of the town?
What power do they possess in regard to road districts?
What power have they in laying out roads?
When may they discontinue old roads?

OF THE COMMISSIONERS OF COMMON SCHOOLS.

Of these there are three for each town, who are chosen by the electors at their annual town meeting, and hold their offices for one year, and until successors are qualified. Upon refusal to serve, after being duly elected, they forfeit $10 to the town.

Chief powers and duties. They are by right of office, inspectors of common schools. They have power, and it is their duty, to divide their town into a convenient number of school districts, and to regulate and alter them, to describe and number these districts, and to deliver the number and description of them to the town clerk.

The commissioners make application for and receive from the treasurer of the county, the monies apportioned for the use of the common schools of their town, and they also

receive from the town collector, all monies raised by the town, and by him collected, for the use of schools. These monies are apportioned by the commissioners on the first Tuesday in April, in each year, among the several districts and parts of districts of their town, in proportion to the number of children in each district, who are over five and under sixteen years of age, as the same appears from the last annual reports of the trustees of the several districts. They have power to sue for and collect in their name of office, certain penalties—and these monies are added to the school monies in their hands, and apportioned in like manner.

The commissioners, between the first day of July and the first day of October, in each year, make and transmit to the county clerk, a report, in writing, of the date of July 1st, in the year of its transmission, in which is stated, the number of school districts and neighborhoods set off in their town; the districts from which the requisite annual reports have been received; the length of time in which schools have been kept in each of the districts of the town, and for what time by qualified teachers; the amount of public monies received in each district; the number of children taught in each; and also the number of children in each district over five and under sixteen years of age; the whole amount of monies received by the commissioners during the preceding year; and the manner in which the monies have been expended.

For neglect in making this report as required by law, the commissioners forfeit, severally, $10 to the use of common schools of their town, and the share of public monies belonging to the town may, in the discretion of the superintendent of common schools, be withheld; in which case the commissioners also forfeit to the town the sum so lost, and interest upon it.

Within fifteen days after the expiration of their office, the commissioners render an account, in writing, to their

sucessors in office, of all monies received by them, and the manner in which these have been apportioned and expended; and if a balance remain in their hands, it is immediately paid to their successors.

Clerk. The town clerk is, by right of office, clerk of the commissioners of common schools. He receives and keeps all reports made to the commissioners from the trustees of school districts, together with all books and papers belonging to the commissioners, and files and preserves them in his office. He attends their meetings, and under their direction, prepares reports, estimates, &c. and records these, and their proceedings, in a book to be kept by him for that purpose. He receives communications from the superintendent of common schools, and disposes of them as directed. He transmits to the county clerk, all reports made for that purpose by the commissioners; and in general, acts under the direction, and obeys the orders of, the commissioners in the business of their office.

QUESTIONS ON THE PRECEDING.

How many commissioners of common schools are there for each town?
How are they chosen?
How long do they hold their office?
What do they forfeit in case of a refusal to serve?
What are they by right of office?
What power have they in relation to school districts?
What monies do they receive?
When and how are these monies apportioned?
When do they make their report?
To whom do they transmit it?
Of what date is their report required to be?
What is stated in this report?
Suppose they neglect to make their report?
Within what time after the expiration of their office, do they render an account to their successors?
What do they state in this account?

Who is clerk of the commissioners of common schools?
Can you enumerate the duties of their clerk?

OF THE INSPECTORS OF COMMON SCHOOLS.

Of these there are three for each town, who are chosen at the same time, and in the same manner, as the other town officers, and hold their offices for the same period. They are subject to a penalty of $10, for refusing to take upon themselves the duties of the office.

Powers, &c. We have before reflected that the stability of our institutions depended upon the virtue and intelligence of the people, and that the attainment and perfection of these should be the constant care of the law, and those administering the affairs of the State. Our early impressions are nearly all derived from our parents, and those standing in the place of parents and guardians, our teachers; and even when the parent is well calculated in point of virtue and intelligence, to cultivate the mind of the child, and instil into it the first seeds of knowledge and morality, the teacher has still the important charge of furthering these efforts of the good parent, and of bringing to perfection what is thus benevolently sown.

Hence the great importance of an office which is to test the ability and qualifications of teachers of common schools —in the exercise of which too great pains cannot be taken to test the literary and moral qualities, the habits and dispositions of those who present themselves as teachers of common schools.

It is therefore made the duty of inspectors of common schools, (any three of whom are competent to act,) at a meeting for that purpose, to examine all persons offering themselves as candidates for common school teachers of their town. In making this examination, it is the duty of the inspectors to ascertain the qualifications of the candi-

date in respect to moral character, learning, and ability, and if they find him properly qualified in all respects, they give him a certificate to that effect. This certificate may be annulled by inspectors, when they think proper, after giving notice to the teacher, trustees, and those concerned.

The inspectors are required to visit once a year, or oftener if necessary, all the common schools of their town —to examine into the state of them, the progress of the scholars in learning, and the good order of the schools—and they may give advice and directions to the trustees and teachers of the schools as to their government, and the course of studies to be pursued in them.

QUESTIONS ON THE PRECEDING.

How many inspectors of common schools are there for a town?
How are they chosen, and how long do they serve?
What sum do they forfeit in case of refusal to serve?
What number of inspectors is competent to act?
How do they proceed in the examination of teachers?
What qualifications do they inquire into?
Suppose they find the teacher qualified?
Can the certificate of the inspectors be annulled?
How often do they visit the schools of their town?
What examinations do they make on such visits?
Concerning what may they advise and direct?

OF TRUSTEES OF SCHOOL DISTRICTS.

These are not properly town officers—but having assigned to them important duties under our laws in relation to common schools, I propose a brief view of their mode of appointment, and of some of their chief powers and duties.

How chosen. The trustees are chosen by the votes of the district, at their annual meeting. They are three in number, and hold their offices for one year.

Chief powers and duties. The trustees may call special meetings of the districts when necessary, and make out a tax list for the sums voted to be raised at a district meeting, annex to it a warrant of collection, and deliver it to the district collector. They have power to purchase a site for the district school house, as designated by the district meeting, and to build, hire, purchase, and keep in repair, the school house; and furnish it with necessary fuel and appendages out of the funds collected for that purpose; and they have the custody of the district school house.

They employ all their teachers, and pay them out of the monies that come to their hands from the commissioners of common schools, (so far as they will go,) and they collect the residue of their teachers' wages from the persons liable for them by reason of having sent to school. These wages are collected by the district collector upon a rate bill, and warrant annexed, delivered to him by the trustees, in which the name of each person liable to pay, and the amount for which he is liable, are contained.

The trustees should be careful to examine the bills of the teachers, and to see that they are correct, before any attempt is made to enforce the collection of them; and indeed it is very questionable whether the collection of a school bill can be legally enforced, except by means of an accurate rate bill, sanctioned by the trustees, with their warrant annexed, and placed in the hands of the district collector.

The trustees are required, between the first day of January and the first day of March, in each year, to make out a report of the date of January first of the year in which it is made, and to transmit the same to the commissioners of common schools of their town. This should be signed and certified by a majority of the trustees; and should specify the whole time any school has been kept in their district during the preceeding year, and distinguish what part has been kept by qualified teachers; the amount of monies received from the commissioners of common schools during

the year, and the manner in which it has been applied; the number of children taught in the district during the year; the number of children in the district over the age of five and under sixteen years; and the names of the parents or other persons with whom such children reside, and the number of children residing with each.

The trustees cannot be too sedulous in their attentions to the interests and prosperity of the school under their charge. Their first business is the employment of competent teachers; and while they are careful of the pockets of the inhabitants, how much more careful should they be in the selection of their teachers. A competent teacher will exact an adequate compensation. And what respectable parent is unwilling that the instructor of his children, the patient and attentive tutor, should be fairly rewarded?

QUESTIONS ON THE PRECEDING.

How many trustees are there to each school district?
How are they chosen?
How long do they hold their office?
How do they proceed to collect a district tax?
What powers have they in relation to the district school house?
Who employs the teachers?
How are the teachers' wages paid?
How are school bills collected?
When are the trustees required to make their report?
Of what date must their report be?
To whom is this report transmitted?
By how many trustees should it be signed?
What should this report specify?

OF CONSTABLES.

These cannot exceed five in number for any town, (except in a few cases provided by statute.) They are chosen

by the electors at their annual town meeting, and hold their office for one year, and until others chosen in their places are qualified. The number to be elected is determined by the electors.

The powers and duties of this officer are too numerous and diversified to be detailed in this work—suffice it to say that he executes all process which is legally directed to him; and is in civil cases confined to the boundaries of his county in the execution of his office. He attends the sitting of the county courts when designated for that purpose by the sheriff. He is a conservator of the public peace, and in the execution of process, can require the aid of bystanders. In the execution of his powers, when no special direction is given by law, a constable in general adopts the practice of the sheriff, under like circumstances.

Although the process which are directed to this officer in general issue from the minor courts, still the frequency of these, and the vast amount of business that in time accumulates upon his hands, render it not only necessary that this officer should possess integrity of character, but great diligence and industry in the execution of his office. Besides, at times he is called upon by a sense of humanity to exercise a merciful forbearance toward the poor but honest debtor—and at others, great rigor in ferreting out and defeating the wiles of the fraudulent, so that at all times he should be above temptation to swerve from an honest exercise of his duties. Not only the property of individuals, but the peace of the people is in his hands. It often happens through the negligence and inattention of the electors, or from a false estimate of the importance of this office, that improper individuals are entrusted with its duties; men of intemperate and indolent habits, and of low vices. And it as often happens that the man who has electioneered faithfully for his *party* finds his reward in *this* office, although he possesses not a requisite qualification.

OF THE TOWN SEALER.

The town sealer is chosen by the electors of the town at their annual town meeting, and holds his office for one year, and until a successor is qualified.

In case of refusal to serve, he forfeits $10.

Powers, &c. (See county sealer.)

He receives from the county sealer copies of the original standards of weights and measures, (which are paid for by the town,) and these are compared once in three years with the copies deposited in the office of the county sealer.

The town sealer compares all weights and measures brought to him for that purpose, with the copies of the standards in his possession, and when these are made to conform to the standard, he seals and marks them, for which he is entitled to certain fees allowed by law.

QUESTIONS ON THE PRECEDING.

How many constables may there be in each town?
When and how are they chosen?
How is their number determined?
How long do they hold their office?
What process do constables serve?
To what limits are they confined in the execution of their office?
Can you name some of his duties?
How is this office important?
How is the town sealer chosen?
What is his term of service?
Suppose he refuses to serve?
With what and how often does he compare his copies of standards?
What are the chief duties of the town sealer?

OF THE OVERSEERS OF HIGHWAYS.

As many of these as there are road districts in each town,

(except in the counties of Suffolk, Kings, Queens, and Richmond,) are chosen by the electors at their annual town meeting, and hold their office for one year, and until successors are qualified. In case of refusal to serve, they forfeit $10.

Chief powers and duties. The careful and skilful superintendence of public highways, is of great importance to the public, and in the exercise of this office, (however humble its title,) a man *may* serve his country well.

It is the duty of the overseer to repair and keep in order the highways within his district; and (when required by the commissioners of highways of his town, or one of them,) to warn all persons assessed to work on highways to come and do so.

It is his duty to cause the noxious weeds on each side of the highway to be cut down and destroyed twice in each year, once before the first day of July, and again before the first day of September. He collects all fines and commutation money, and in general executes all the orders of the commissioners of highways of his town.

OF POUND MASTERS.

So many of these as the electors may determine are chosen by them at their annual town meeting, and hold their office for one year, and until successors are qualified. For refusal to serve, they forfeit $10 to the use of the town.

Powers and duties. The electors of the town determine how many pounds shall be erected in it, and these are kept under the care and direction of the pound master.

Beasts doing damage, are subject to be distrained, and the person distraining, is required to go through certain forms before he can deliver them to pound; but that being done, the pound master receives and keeps the beasts regularly delivered to him in the public pound, and unless they are replevied or discharged according to law in six days, he sells

the beasts, or so many as are necessary, at public vendue, upon forty-eight hours notice, by advertisement, fixed up at the pound and at the nearest public place. From the proceeds of the sale, he retains enough to pay his fees, his charges for keeping the beasts, and the charges of the sale; pays the person impounding the beasts, the damages properly certified by the fence viewers, and their fees; and the surplus (if any) to the owner of the beasts. If no owner appear within one year from the sale, and claim the surplus, it is paid to the overseers of the poor of the town, for the use of the poor.

It is his duty to discharge beasts impounded, upon being paid the amount of damage certified by the fence viewers, and their fees, together with his own fees and reasonable charges for keeping the beasts, not exceeding six cents for each beast for every twenty-four hours.

QUESTIONS ON THE PRECEDING.

How many overseers of highways are there for each town?
How are they elected?
What is their term of service?
Suppose they refuse to serve?
Can you enumerate the powers and duties of overseers of highways?
How many pound masters are there for each town?
How are they elected?
What is their term of service?
What do they forfeit in case of refusal to serve?
Who determine the number of pounds to be kept in a town?
When are beasts subject to be distrained?
How does the pound master dispose of beasts impounded?
In case he sells beasts, how does he dispose of the proceeds of the sale?
Suppose no owner appear within a year after the sale?
When must he discharge beasts impounded?

OF FENCE VIEWERS.

The assessors and commissioners of highways of each town, are by virtue of their office fence viewers.

Chief powers and duties. The law provides that two or more owners of adjoining lands, shall each make and maintain their just proportion of the division fences; and that when disputes arise between such persons on the subject of the portion to be made and maintained by either of them, that any two fence viewers of the town, to be chosen by the parties, decide the difficulty for them.

The matter in dispute is examined by the fence viewers, and in case of their disagreement, they choose another fence viewer to act with them, and the decision of any two of them is final. This decision is made in writing, containing a description of the fence and the portion to be maintained by each, and is immediately filed in the office of the town clerk. The fence viewers have power to issue subpœnas for witnesses, and to administer oaths to, and to examine them upon any matter submitted to their decision.

Any two fence viewers have power to appraise damage done by beasts when applied to for that purpose, and they repair to the place where the damage is done, and view it, administer oaths to witnesses, and take their testimony on the subject of the extent of the damage, and when ascertained, they certify the extent of the damage done, under their hands, with their fees.

QUESTIONS ON THE PRECEDING.

Who are fence viewers?
How are division fences maintained?
Who decides disputes that arise in regard to division fences?
Suppose two fence viewers disagree on the question?
How do they make their decision, and what does it contain?
How many must agree to the decision to render it valid?

Where is their decision filed?
Can they subpœna and examine witnesses before them?
What power have they in appraising damage done by beasts?
How do they proceed in this matter?
What do they certify?

OF COMMISSIONERS OF EXCISE.

The supervisor and justices of the peace are commissioners of excise for their town, and three of whom, the supervisor and two justices, or if the office of supervisor be vacant, any three justices form the board.

Their regular meeting is on the first Monday of May in each year. They have power to grant licences to keepers of inns and taverns residing in their town, to sell strong and spirituous liquors, and wines, to be drunk in their respective houses; and to license resident grocers to sell such liquors and wines, in quantities less than five gallons, but not to be drunk on their premises. They determine the sums to be paid for such licences, to be not less than five nor more than thirty dollars—and these licences expire in one year. Persons not so licensed, are subject to penalties in case they sell.

The commissioners in licensing an inn-keeper, should be careful that he be of good character, and that he possesses the means of opening such a house of entertainment as will be a convenience to the public, and a home to the traveller. These officers have hitherto, in many parts of the state, been accused of remissness in the execution of the trusts reposed in them. Excise has prevailed over considerations of a higher nature—and too many inns, and a surplus of vicious ones, have been the consequence. It is neither excise money, nor the advantage of an individual that calls for the licence of an inn-keeper; but the accommodation of the public at large, and the entertainment of travellers.

Where these will not be promoted by granting a licence, it should be withheld.

OF THE BOARD OF AUDITORS OF TOWN ACCOUNTS.

This board is composed of the supervisor and town clerk, together with the justices of the town, or any two of the justices.

Powers and duties. This board meets on Tuesday preceding the annual town meeting, in each town in the state, for the purpose of examining the accounts of the overseers of the poor, of the commissioners of common schools, and the commissioners of highways, of their respective towns, for monies received and disbursed by them, in virtue of their offices.

The accounts so audited, are delivered with the certificate of the auditors, to the town clerk, who keeps them on file, for the inspection of any of the inhabitants of the town.

The town clerk is bound to produce these accounts at the next annual town meeting, and there to read them if required to do so by a resolution of the meeting.

The accounts of the supervisor, for monies received and disbursed by him, are audited on the same day in each year, as the accounts above mentioned, by the justices of the town, or a majority of them, and the town clerk; and when it is done, they are filed in the office of the town clerk.

In the discharge of this duty, the board of auditors should consider that they are the sentinels of the people, placed there to guard their treasures, and should not suffer any consideration of private friendship, personal regard, or station in society, to screen persons whose accounts are subject to their investigation, from a thorough inquiry into their affairs, and their mode of transacting public business.

QUESTIONS ON THE PRECEDING.

Who constitute the board of excise of a town?
When is their regular meeting?
What licences do they grant?
What sum may they require for a licence?
What are the requisites of an inn-keeper?
What is the object in licensing inns?
Who constitute the board of auditors of town accounts?
When does the board meet?
What accounts do they audit?
To whom are the accounts delivered when audited?
When and by whom are the accounts of the supervisors audited?
Where are his accounts filed?

OF COMMISSIONERS OF DEEDS.

The number of commissioners of deeds for each town in a county, is determined by the judges of the county courts of each county, by a rule of court.

They are appointed in this manner: The judges of the county courts, and the board of supervisors in each county, meet in separate chambers on the day and at the place of the annual meeting of the board of supervisors; and each body, when so met, nominates in separate lists, the number of persons then to be appointed to this office in the several towns in the county. When this is done, they meet together on the same day or the day following, for the purpose of comparing their nominations, and if they agree in the whole or in part, the persons on whom they so agree are appointed; but if they disagree in whole or in part, they immediately proceed to elect by joint ballot, from the persons nominated, so many as are necessary to complete the number to be appointed. They then make out a certificate of appointment, containing the names of the persons appointed; this is sign-

ed by the first or senior judge, and by the chairman of the board of supervisors, and filed in the clerk's office of the county.

No supervisor can be appointed a commissioner of deeds. The commissioners hold their offices for four years, but may be sooner removed by the judges of the county courts.

Chief powers and duties. They have power to take the proof and acknowledgment of conveyances of real estate, and the discharge of mortgages—to take acknowledgment of bail in actions, in the supreme court—and in actions in the court of common pleas of the county for which they are appointed—and to take acknowledgment of satisfaction of judgments in the supreme court, and in the court of common pleas of the county for which they are appointed.

They cannot take the acknowledgments of deeds out of the county for which they are appointed.

A commissioner cannot take the acknowledgment of any conveyance having been executed, unless he knows or has satisfactory evidence, that the person making the same is the individual described in, and who executed, the conveyance.

If the commissioner is not acquainted with the individual making the acknowledgment, he swears a witness to identify him.

In addition to this, in taking the acknowledgment of a married woman, a further proceeding is required. She must acknowledge, in a private conversation, apart from her husband, that she executed the conveyance freely, and without any fear or compulsion of her husband.

After taking the acknowledgment, the commissioner endorses a certificate thereof, signed by him, on the conveyance—and in this certificate, he sets forth the matters required to be done, known, or proved, as above stated, together with the names of the witnesses examined before him, with their places of residence, and the substance of their testimony.

Conveyances so acknowledged or proved, and certified by commissioners of deeds, or other competent officers, may be read in evidence, without any other proof thereof, and are entitled to be recorded.

Commissioners of deeds also take affidavits.

QUESTIONS ON THE PRECEDING.

How is the number of commissioners of deeds determined?
Can you describe their mode of appointment?
Can a supervisor be appointed commissioner?
What is the reason he cannot?
How long do commissioners of deeds hold their office?
By whom may they be removed?
Can you enumerate their chief powers?
Can they take acknowledgment of deeds out of the county for which they are appointed?
Suppose a commissioner does not *know* the individual making the acknowledgment?
What further is required in taking the acknowledgment of a married woman?
What does the certificate of the commissioner, endorsed on the conveyance, contain?
What is the effect of this certificate?

POLITICAL ETHICS.

SECTION I.

OF GOVERNMENT.

MAN is a moral being. He is endowed with certain sentiments and faculties which distinguish him from the lower creation; upon the cultivation and proper exercise of which, depends his happiness. Other creatures are so constituted as to have no moral wants or emotions; and if their bodily wants are supplied they are contented.

But man's higher nature requires gratification. He cannot rest without his intellectual and moral wants are satisfied. One of these wants is the society of his fellow men. He is therefore a social being, by the very law of his nature, and to perfect his happiness it is necessary for him to live in society.

This society is composed of multitudes of men, who live together in the same state or country—while they lived separately, or out of society, each acted according to his pleasure without doing injury to any body—and this is called *natural liberty.*

But when men came together in society, some restraint upon the actions of each individual became necessary for the safety and happiness of the whole.

This restraint could only be effected by *government,*

which by its rules or laws, should command whatever might benefit, and prohibit whatever might injure, the community.

Government therefore becomes necessary to be extended over all men who live in society.

These then are admitted truths—

1. That man to be happy must live in society.

And,

2. As society cannot exist without government—its institutions become necessary to the happiness of mankind.

Now our chief *moral* duties relate to the promotion of man's happiness—and if he is happiest under government, it becomes a great moral duty;

First. To adopt such *a kind of government*, as is best calculated to promote human welfare:—

And,

Second. So to conduct under that government as to secure individual and general happiness.

SECTION II.

OF MAN'S DUTY IN REFERENCE TO THE ADOPTION OF THE FORM OF GOVERNMENT.

Government being instituted for the benefit of all under its influence, ought to be so constituted as to be free from all *oppression.*

Any *unnecessary restraint* of natural liberty cannot be indulged in; for instance, nature has endowed us with the power of speech, and we have a strong inclination to indulge in it: to forbid it would make a man wretched.—He has the right to speak. In a state of nature and alone he might say what he pleased—when he becomes a member of a nation he may still speak, the right is not surrendered; but by agreeing to live in society his exercise of this right

must be so modified, as that it shall not be used to the injury of society or any of its members, without the individual's being held responsible for the injury he may inflict thereby.

To forbid speech would be tyranny: but to hold the speaker responsible for such injury as he may inflict by speech, is not an unnecessary restraint of his natural liberty. The due restraint of licentiousness is not tyranny.

Take another example. Nature has endowed man with a disposition and power to acquire possessions and property; he has an instinctive desire to acquire gain; he naturally clings to exclusive property. This strong natural desire was designed by the Creator to be gratified—and man therefore has a right in the pursuit of happiness, to acquire and keep exclusive property. Now it would be tyrannical and oppressive for government to defeat this strong natural disposition of the human mind.

Government must allow to each man his gains and acquisitions in property, and has no right to interfere in respect to it, farther than to forbid its acquisition by means which tend to the injury of society, and to require a just contribution from each man towards the support of government.

Again, Nature has implanted in the human mind a strong feeling of reverence, and disposition to worship and adore the Creator of the universe. This disposition is universal. It is an attribute of man's nature.—Its exercise is necessary to his happiness, to forbid its exercise would be the height of tyranny.

But different individuals of the human race are so constituted as that they require different forms and modes of worship, and different ways and times of manifesting this sentiment. Government cannot prescribe to any man the time and manner of divine worship.—These must be left to his own impulse and conscience.

Government cannot therefore establish any religion, or

give one form of it preference over another. The law can neither forbid religious worship nor prescribe its form.

The religious sentiment is high above all human interference.—Its freest exercise cannot endanger the well being of men in society, and the laws cannot interfere on this subject without an unnecessary, and therefore tyrannical abridgement of man's natural liberty.

These remarks are applicable to all of a man's natural rights.

The restraint which government imposes upon the citizen must be justified by the good which this restraint ensures to the whole public body. Any further restraint than an enlightened view of the public good requires, is tyranny.

Now it happens that good government is exactly in conformity with the intellectual and moral nature of man.

A good and enlightened man feels no restraint under a just and free government which his own nature did not previously impose upon him. The very law of his nature made him respect the life of his fellow man before he came into society. The law of society only adds a penalty for the violation of a natural sentiment for the protection of its members. The same may be said of the right of property and of personal liberty.

But it is man's duty not only to adopt a government which shall be free from all unnecessary restraint of man's natural liberties, but one which shall impose no *unnecessary burden* upon the citizen.

Government should avoid *unnecessary expense*—an enlightened economy shonld be exhibited in all its arrangements. Any expense beyond what is necessary to the proper conduct of government cannot be exacted from the people. It is a fraud upon them to take their property and earnings from them, under the pretence that it is to be expended for the promotion of their happiness, and to lavish it in wasteful and unnecessary expenditure.

Government ought not to exact the service of the citizen,

except for the public good. Each citizen ought to assist in defending the State.—But in the adoption of the form of government, if the citizen is careful to see that it is so constituted as not to be used for the schemes of the ambitious, he may avoid wars, and those hazardous and bloody services that are required of the subjects of arbitrary governments.

War can seldom be necessary in an enlightened age; and a republican form of government is a great guarantee against this scourge of nations.

Government ought to assist in the elevation of human nature. It should place a high estimate upon humanity—and confide in the capacity and integrity of the people.

Most governments are based upon the supposed debasement of the mass of the people.—They are instituted *over* them, not so much for *their* benefit, as for the benefit of the rulers. Now it is the duty of all enlightened men to throw off all such governments, and to prepare themselves for the adoption of a government of *their own*,—one under which human rights are respected, and man's liberties maintained.

Government being instituted for the common benefit, should afford equal privileges, and secure equal protection to all its members.

No privilege should be conferred upon one man which is denied to another.

Arbitrary titles and distinctions are odious, and should find no place among men. A government which confers them is partial and unjust.

Greatness cannot be conferred by government; nature revolts at it, and often renders the unnatural attempt extremely ridiculous, by bringing forth a fool or knave for the honors of artificial nobility; while she presents at the same time her gifted and untitled favorites for the esteem and admiration of their fellow men.

In the constitution of human government there can be no wiser guide than the decrees of the Creator. It is our

duty to make our constitution and laws in conformity with nature's dictates.

Men naturally crave an equality of rights: let all men have equal protection.

Man clings to his natural freedom: let him be fettered with no unnatural and unnecessary restraint.

Man reverences and would promote moral and intellectual greatness: let him be permitted to do it under government.

Now the form of government which reposes upon the integrity and intelligence of the people, and secures to all alike equal rights, privileges, and protection, is the republican form adopted by the people of the United States; and we may be said to have taken a high moral position, and to have discharged a great moral duty in the adoption of it.

The people of this country have then as a nation, discharged their *first great moral duty by adopting* a form of government best calculated to promote human happiness.

But the great moral work is as yet only begun.—The machinery of government is now to be set in motion, and the *second* great moral action is to be performed.

Each citizen has now become an actor under this government, and we are next to consider his duties.

SECTION III.

OF THE GENERAL DUTIES OF A CITIZEN OF THIS REPUBLIC.

What is the position of each citizen?

The constitution of our government has declared that he is able in point of capacity to understand human rights, and to adopt the means of preserving them.

It has pronounced that he has such a degree of intelligence as will enable him to determine what measures are necessary to promote the public good.

It has reposed confidence in his integrity and committed to him the sacred trust of the public happiness.

It has left to his vigilance and watchful care the constant protection of the public interests.

Here is a great and fearful responsibility. If the citizen is *ignorant*, he *cannot* discharge his duty—if he is *dishonest*, he *will* not,—if *inattentive* he *does* not.

Intelligence, integrity, and vigilance, are expected in every citizen.

We are all mariners in the great ship of State, and are constantly beset with dangers. Every man is required to be at his post, to understand navigation, and the waters on whose bosom we are wafted. If some of our crew are ignorant of their duty—if others are absent from their post—if some are intemperate, and others faithless—if some shall be at their grog, and others in their berths when the storm rages, how shall the lives of the whole be preserved, and the good ship be brought into the haven of safety?

Has not each a right to call on every other man to do his duty? Can any refuse without violating a great moral obligation?

The happiness of all is concerned in the enterprize. Can he be a moral man, who, from a neglect of duty destroys the happiness of a nation? He who injures the happiness of a single individual is punishable for his crime.

Shall he who robs me of my property be punished as a felon, and he who deprives me of my liberties escape condemnation?

Every man who consents to live under our government undertakes to perform the duties which it imposes upon him.

If he is too ignorant, dishonest, or indolent, to discharge them, he commits a great moral wrong by remaining a member of the republic. He is in a false position; he should place himself under the protection of a king who will take care of him. A republican must be able to take care of himself—he agrees to do it. He contracts with

each and every citizen that he is able and willing and designs to do every thing to uphold the institutions of the country.

We hold him to the performance of this great obligation.

Let us see how he may be able to discharge it.

The public are interested in the *personal condition and character* of each citizen to a certain extent—in a portion of his *domestic duties*—in his *carriage and conduct in society*—and in the performance of his *political duties*.—In all these respects the people require something of him for the common benefit, and he cannot properly deny their demands.

First. *The public have an interest in the personal condition and character of each citizen.*

1. *The bodily health and vigor* of each citizen is important to the republic. It is therefore the duty of the citizen to attend to the laws of his physical frame—to be instructed in whatever is necessary for the preservation of his health. The laws of health are simple and within the comprehension of all. If a citizen is disabled by disease he fails to discharge his duties—and may become a charge to the public.

2. *Moral and intellectual cultivation* is a duty which the public have a right to enjoin upon each citizen. It is to be borne in mind, that to carry on our government the integrity and intelligence of each citizen is required. His moral sentiments are to be trained by a healthy exercise—his sense of justice, his benevolence, and his other moral attributes are required to be quickened, and his intellect is to be well informed.—Without this he will not come up to the required degree of excellence.

3. He must have *an occupation*, or pursuit in life. No matter what his condition—the public have a right to require that he have an occupation. If poor it is necessary for his

subsistence, to enable him to escape being a public burthen —to become a contributor to the expenses of government— and to keep him from a life of idleness and crime. If he is wealthy, he should not shun all occupation—since he may contribute by his invention, or his literary or scientific acquirements to the good of society, and also escape the temptations which a life of idleness may throw in his way.

Besides, upon the exercise of the faculties of a man depends his vigor of both mind and body; and he who rusts out in in idleness, merely because his wealth exempts him from the necessity of occupation, will find his life as uncomfortable to himself, as it is profitless to the republic.

SECOND. *The public have an interest in the domestic relations of each citizen to a certain extent.* And,—

1. The experience of mankind has shown that the *state of marriage* under proper circumstances is conducive to individual happiness, and the general welfare.

But marriage is not to be thoughtlessly or universally indulged. Early marriages are esteemed by the most judicious as dangerous experiments. The mental and moral character of the parties should first be fully developed—their physical frames also fully grown, and free from constitutional disease.

While marriage should be encouraged by law, and indulged in by the citizen, it should be subjected to judicious restraints.

The parties should wait for the maturity of their minds and persons. Those who are constitutionally diseased or infirm, ought not to marry. The ignorant and degraded ought not to marry at all. The haunts of vice, and abject poverty, are unfit nurseries for infant citizens.

Now the public are interested in this subject to the extent above stated. The whole body suffers loss where a good citizen, and one fit for the discharge of all the domestic du-

ties, refrains from marriage—but they suffer much more, when the ignorant, vicious, and degraded, marry and undertake the care of their offspring. To err on either side of this question, is to inflict a wrong on the public, which no man is at liberty to do.

2. The *moral training* and *mental culture* of the children of every citizen is of the utmost importance to the State.

This duty is first to be discharged at the domestic fireside. There the first lessons of moral duty are taught,—there example and precept combine to exert the strongest influence that can be brought to bear upon the youthful mind. The first lessons of duty and of patriotism, come from the mother's lips, and the father's admonition and example.

If the domestic hearth is pure—if virtue and intelligence reign supreme there, the little beings within the sphere of their influence will come forth to the world with the sweet impress of a mother's purity upon their countenance, and the noble stamp of their father's truth and virtue upon their brow;—they will ripen into maturity, imbued with truth and excellence, and the public body of which they become members, will be greatly profited by their accession.

Home is the nursery of the good citizen—Public ignorance and depravity are made up by individual contributions. If each family contribute one ignorant or abandoned son or daughter to the public body, it sends forth a messenger of evil to the State.—The government is weakened in its public virtue—and so far as it is weakened, its safety and permanancy are endangered.

Our government is unlike all others in this respect.—The duties of a republican are greatly increased, above those of the subject of an arbitrary prince. Self-government imposes the necessity of self-discipline, and self-denial,—moral training and mental culture upon every parent and every child. This duty cannot be neglected without moral fault.

The education and moral training of the youth of his

family is the duty of every citizen, and he is reckless of his obligations, and faithless to the State, who neglects it.

But this duty cannot be fully discharged at home.—The *time and money* of the parent must be devoted as far as necessary in co-operation with his fellow citizens to carry out the great work of public instruction. A small portion of the time and money devoted to idleness and pleasure, if spent in the promotion of education, would soon answer the end desired—and if each citizen properly appreciated his duty in this respect, he would soon feel the greatest pleasure in its discharge.

Public sentiment should be kept constantly awakened upon this subject. "The price of freedom is eternal vigilance."

From a due appreciation of this duty, results wise legislation for the cause of public instruction;—laws are passed for its promotion. Public monies are then bestowed upon it—education becomes a popular theme. The officers of government keep pace in their exertions with the public feeling and wants,—the character and qualifications of teachers become improved—the dignity of their station exalted. This great moral engine is set in motion for the good of mankind, and the rich reward of human safety, excellence, and happiness, amply repays all the exertions that have been lavished for their advancement.

I have thus far only referred to the general topic of education. There is a species of education peculiarly necessary for the young American. It is the knowledge of the constitution and laws of his country, and of the powers and duties of the officers of government.

The citizen is but half educated, who remains ignorant of the constitution and criminal law. He is unfit to vote, without understanding the nature of the office his vote is to fill. Can he uphold the constitution without understanding its provisions? Will he avoid offence to the laws without knowing what they prohibit? Can he know who is quali-

fied for an office, without understanding the powers and duties of it? If not, is he prepared to act as a citizen?

A faithless citizen is far from being a harmless man. An ignorant citizen is an obstruction to the public advancement. An honest and intelligent voter deposites his ballot upon a subject of vital importance to the State.—An ignorant and reckless citizen does the same. The first one votes aright—but it is a mere accident whether the latter votes right or wrong. If wrong, he defeats the vote of the first citizen. Has he a right to do so? He has violated the right of his fellow citizen—for it was his right to have the question determined upon correct principles.—His own safety and that of the State depended upon it.—An ignorant or depraved voter, thus works a great political evil, and is a moral nuisance to the State. This nuisance can only be abated by the instruction of each citizen in knowledge appropriate to his qualification as a voter.

But the voter is not alone to be educated aright. The mothers of voters require attention.

The education of woman, under our government, is a matter of the first importance. It is true, the mother cannot vote—but she trains the voter for his station in society. Her sex deprives her of the power of acting in the affairs of State—but her son represents her at the ballot box. Her sentiments and hopes are there tested and decided. She does not deposite the ballot, but she may determine its character. And the influence which woman justly exerts in society is felt in our public affairs, to nearly as wide an extent, as if she acted directly upon matters of political concern.

The seeds of public virtue, then, must be sown in the female mind, and the proper education of woman becomes of the utmost importance to the community.

It is feared that hitherto, the education of woman has been much neglected and mistaken.—Her strength of mind has been underrated—and a trivial education has been too

often the consequence. There is no branch of human knowledge which woman may not acquire. Man has not a monopoly of intellect, and there is nothing in science which is profitable to man, but that is equally advantageous to woman. She is man's companion and equal. Let her take her proper station in the moral and intellectual world.

THIRD. *The community is interested in the social bearing and conduct of each of its members.*

In kingly governments it may be necessary to overawe the people by equipage, show, and titles, in order to keep them in subjection. A wide gulf is created between the people and their rulers. Wealth and title are conferred upon the few, while the many are taxed for the means to keep themselves in subjection. The eye of the mass of the people is dazzled by the splendour of the nobility.

Such governments seem ordained for the happiness of the rulers—and not for that of the citizen. In every procedure there is a disrespect of the rights and interests of the million. Art takes the place of nature. Greatness is thrust upon those to whom nature has denied it. Power is exercised by a claim of divine right, and without "the consent of the governed."

It is easy to perceive that the social condition of such a people is widely different from our own. We have adopted a simple form of government. We have studied nature in its adoption, and conformed to her dictates.

Simplicity, justice, equality, and economy characterize the frame of our political institutions.

The people are their own rulers. Here is no one to be overawed by the pomp of state. On the contrary, we are all co-partners in the business of government. Common sense, common honesty and a strict regard to human rights, being our capital—and our profits, being the greatest happiness of all concerned.

Under such a government, the social intercourse and manners of the people may be expected to be natural, since they are not dictated by a false and artificial administration of power.

In social life, therefore, is it asking too much to require of every citizen, that his manners and mode of life shall conform to the theory and principles of our government?

It is not enough to adopt a republican *form* of government, without acting up to its *spirit*, and carrying out its design.—Nay, such a government cannot long exist, unless its influence shall be carried into social life; this is but reducing theory to practice. We must practice republicanism in our families—our social circles—in the enjoyments of life—in our style and mode of action.

Simplicity of heart and manners, is the fruit of good taste, and of a sound understanding. It is the dictate of nature and reason.

Foreign manners cannot be engrafted upon our institutions, without prejudice to the State.

Let us examine this subject practically.

Suppose a citizen to be the fortunate possessor of wealth. He lives under a government whose object is, to equalize the condition of men as far as their natural endowments will allow. How ought he to conduct? Good sense and correct taste will suggest to him at once the propriety of avoiding all needless ostentation and idle show. He may enjoy his wealth—it is his right; he is protected by law. But who made the law? His fellow citizens. Then they have guaranteed to him the possession of his treasures, and they will defend his rights by their money and their blood.

Ought he not then to respect their feelings and sentiments? Shall he offend them by his daily ostentation and overbearance? Shall he encourage extravagance by his example, among a people characterized by great simplicity?

Again.—This government acknowledges no distinction among men, but that arising from their endowments of vir-

tue and talents.—Shall the wealthy citizen set up a false standard of merit, and measure greatness by the length of one's purse?

Wealth is far from being a sure index of merit. It may prove that its possessor has been industrious, or fortunate, or economical, or mean, or long-sighted—one or all of these; but it does not establish any claim to distinction among men, unless the possessor so employ it as to render himself a more useful and excellent citizen than he would otherwise have been.

The community have a right to expect, therefore, that a wealthy citizen living under the protection of our laws shall not seek to establish wealth as the standard of merit—and moreover, that in his pretensions, manners and mode of life, he shall carry into practice the theory of our government, which acknowledges no false and artificial distinctions among men.

Take another example. A mechanic is a useful citizen —we cannot get on without the mechanic arts. Labor is useful and honourable. Now what estimate is society to place upon the mechanic? Precisely the same as is placed upon any other citizen of equal merit. The distinction of pursuit or occupation is not to be made.

It is mischievous to give greater consideration to an idle and useless citizen than to an industrious and valuable one. Shall the idler gain place and consideration in society merely because he is idle? Shall he who contributes to the happiness of others, be less esteemed than he who serves himself alone?

But it is objected that the manners and accomplishments of the one render his society more desirable than the other's. This may be true—all I contend for is, that the *mere pursuit* of an individual shall not exclude him from the social circle if he is otherwise acceptable.

We are all destined to some employment—nature has so

ordained it. It is not degradation to follow the law of our nature.

But it is enquired, if *birth* is not to be taken into consideration? I answer no—not in the ordinary acceptation of that term.

To be *well born*, in common acceptation, is to be descended from an ancient stock, whose pedigree can be traced far back—and some of whose ancestors have done or suffered something out of the common lot of humanity. Now I apprehend this is of less value than is generally supposed. To my mind, he is *well born* to whom nature has given a good physical frame; a sound and vigorous understanding, and exalted moral sentiments—and he is *ill born*, who is deficient in mental and moral endowments—although his pedigree may reach back to the garden of Eden or beyond it.

It is true that the qualities of parents are likely to be transmitted to their offspring—it is a probable advantage therefore to spring from a good parentage. But such a parentage may exist in humble life. The noblest sentiments may adorn the farm house, or the mechanic's shop—and the truly great among men may be born in the humblest station in society.

It is not going too far to enjoin it as a duty upon every citizen so to conduct in society as to show himself imbued with the spirit of our institutions. This spirit discourages all ostentation and idle show—all parade of wealth—and all distinctions except those of a mental and moral nature. It encourages gentle manners and kind offices among men.

It teaches us to look with interest upon every citizen—to have a regard for his welfare and conduct in life; that we are associated with him not only by the common ties of our nature, but by our social compact—*that he is one of us*—and is worthy of consideration. It banishes from our minds the idea of condescension when we mingle among

our fellow citizens, and gives us a lively interest in our fellow creatures, whatever may be their condition in life.

This feeling is natural, and can only be overborne by long indulgence in false taste and false philosophy.

He that is unwilling to live under our institutions upon the terms here proposed, had better leave the country, and take up his abode under a monarchy. There he will soon become cured of his mental disease, and after he shall have borne the neglect and hauteur of a titled nobility for a few years, he will be glad to return to a country where a man is respected, *because he is a man.*

We have banished all tyranny from the frame of our government, and we have left men free to hold opinions upon all subjects as their judgments may determine them. In matters of religion, philosophy, politics, and whatever subjects may fall under discussion, government leaves all men to discuss, decide, and believe, as suits their reason and conscience. This is right.

But in social life we are required to carry out, and to sustain this freedom of discussion and of opinion. In vain shall we say that opinion is free—if in social life we allow any body to suffer for the exercise of that freedom.

There is a species of tyranny as great as the law can inflict. It is that of public opinion carried out by social persecution. True we are not permitted to inflict punishment by law for religious difference in opinion—but if a man is to be banished from society, or injured in the estimation of his fellow men on account of his speculative, religious, philosophical, or political opinions—he is still subject to tyranny. He is injured and that most unjustly—he is banished from society, suffers in reputation, and is molested in the pursuits of business. It is in vain to console him with the reflection that *the law* has not done it. The law makers—the people themselves have done it. They have guaranteed to him perfect freedom by law—and deprived him of all the benefits of that law by social persecution. They have

cheated him out of his liberties by a pious fraud. They cry "the constitution has not done it." True—but they who made the constitution have done it, and that is quite as bad. The result is the same to the injured party. It was the *evil* of persecution for opinions sake that the constitution undertook to guard against. The mode of inflicting the wrong is of no importance—so that the injury be done, the evil is the same.

Now it is obvious that if the spirit of the laws guarantees perfect freedom of opinion upon all subjects, it is the duty of citizens in social life to see that no one suffers for mere opinion's sake.

This can only be effected by regarding speculative opinions as of little importance, by looking charitably upon the motives of men—by allowing the same freedom of thought and opinion to others that we claim for ourselves.

In society therefore, no difference should be made among men on account of their religious faith, their philosophical opinions, or political associations. Society must set up a different standard to test the merits of men. They should be estimated according to their endowments of mental and moral excellence. Any other mode of deciding upon human merit in society, is unjust and tyrannical, and may work the greatest evil under any government, however free.

But it is inquired, must a christian tolerate a Turk in society? Is the Jew to be regarded as though there was nothing peculiar in his religion? Yes, the Turk and Jew are men. The Christian is no more than a man. One may be as just, as benevolent, and as intelligent as the other. One worships the Creator by a different name from the other, and in a different place and manner. Let Him to whom that worship is addressed decide upon its merits.

But in politics, a man has always held different opinions from your own and voted accordingly. Well—he thinks and judges differently from you.—You may both be in the wrong, or he may be wrong and you right; but remember, *he has a*

right to think and decide wrong—if he does so honestly. Do not neglect any friendly offices towards him on this account. He has the same interest in public affairs as yourself.—He is endeavouring to serve the state, but takes a method of doing it, which you disapprove. Condemn the measures if you please, but not the man. Convince him if you can, but failing, do not persecute him. Let him still have your sympathies. He may serve the state by his hands, if not by his head. He may be right in morals, though wrong in politics—and the former is of far greater importance than the latter.

What distinctions then *are* allowable in society? I repeat—those of a moral and intellectual nature only. These are the distinctions of nature and reason—and to establish any other by law, or by social usage, would be an entire departure from the principles of free government.

Good sense, intelligence, refined taste, liberal philanthropy, high integrity, pride of character, politeness springing from the heart—these and kindred qualities, are the true basis of human distinctions. These constitute human excellence; their possessors are the favorites of the Creator, and are entitled to be exalted among men.

FOURTH. *The remaining duties of the citizen of which I propose to treat, are more strictly of a political character.*

We are now to suppose that the citizen has become qualified in point of intelligence to act his part in the administration of state affairs.

His integrity prompts him to a conscientious discharge of his duties. He has acquainted himself with the constitution and laws. He has properly attended to the domestic and social departments of life. He comes qualified to act on the open theatre of the Republic, as one desirous of upholding the institutions of his country.

What is he to do—and what shall he abstain from doing?

1. His first great duty is to *respect and reverence the constitution.*

This will be evidenced by his living up to its spirit himself, and by his efforts to guard it from violation by others.

He will vigilantly watch the administration of the various departments of government, and see that all are kept within the limits of the constitution.

History will have taught him that there is danger that the executive branch of government will seek to extend its power beyond the limits prescribed for its exercise;—that a popular president or governor may claim a right to exercise power forbidden to him, and rely upon his personal popularity to escape from censure or impeachment. He will be jealous of the executive arm, and watch with the utmost vigilance every attempt of lawless ambition to encroach upon the liberties of the country.

The legislative branch of government more immediately represents the people. His great duty in reference to this department, consists in taking care to be properly represented there, by wise and upright members.

This branch puts forth the laws that are to govern the people. These laws ought to emanate from enlightened public sentiment. That sentiment should be fitly represented in the halls of legislation. The citizen should be careful to see that the making of the laws is committed to such hands as will never do violence to the spirit of the constitution.

It is for the citizen to see, that neither the executive nor legislative branches of government transcend their legitimate authority. The constitution prescribes the extent of all executive and legislative action. It is unfortunately too often the disposition of rulers to attempt the exercise of unlawful power. Every act of the executive or the legislature should be brought to the test of the constitution. An enlightened and vigilant people will ever be ready to rescue the constitution from the feet of the spoilers.

2. It is the duty of the citizen *to respect and obey the laws of the country.*

These laws emanate as I before remarked from enlightened public sentiment. The citizen's duty is obedience. The laws are his own—he has assisted to make them. They are made for his benefit, and serve for his protection. If any are wrong, he can have them corrected or abolished—but while they exist, he must observe them.

He should never do violence. The law is his redress. If a case is omitted, where redress seems necessary, let him await legislation, and effect his object peaceably, and in the mode contemplated by the constitution.

If there are abuses in society, against which his soul revolts, it is better to wait for legislative action, or the public sentiment, to abate the evil, than to resort to unlawful means for its suppression.

Mob force is in no case justifiable. A greater evil cannot exist in society than the toleration of lawless violence. Where it reigns civil government is at an end. "Amid arms the law is silent"—and not only silent, but dead.

What apology is there for mob violence? Is there an evil in the land which it can remedy? Can it effect more than peaceful and enlightened public sentiment? Cannot "holy indignation" await the virtuous and peaceful action of the people, or must it break out with staves and clubs, to commit a far greater wrong, in the redress of grievances, than it seeks to correct? There is not a shadow of good in these demonstrations of mob force. They have not even the poor apology of "doing evil that good may come,"—since the good that can possibly spring from them, is infinitely small compared with the evil which they certainly occasion.

What security has a citizen, who sallies forth with a mob, that he himself may not be the next victim to lawless violence?

"The law is our king,"—let us obey the sovereign of our choice.

Obedience to the laws, implies *proper respect for the Judiciary of the country.*

Our courts are established to expound the laws, and to decide all questions of controversy between citizens. Our lives, property and characters are committed to the protection of the courts.

The citizen should always respect the station of the judge, and bow with submission to the final decision of our courts of justice.

In order to do this conscientiously, he should have confidence in the integrity, learning and capacity of judges—But he cannot have this confidence where it may be properly withheld—and it *will be* withheld from an unqualified or unworthy bench.

What then is the citizen's duty? It is to see that the noblest qualities of mind and sentiment are elevated to judicial stations.

The judge should be selected from among the wisest and purest men of the nation. He should be at mature years—and full of knowledge. He should be unambitious, except to discharge his duty—not wanting in patience,—quick to perceive—slow to decide—of a clear judgment—and an unprejudiced mind. He should patiently listen to arguments, and respect suitors and their counsel.

"He should not be wise in his own conceit," but ever willing to be informed.—He should love truth, justice and mercy—detest wrong; and respect human rights. He should be accomplished in learning—a sound lawyer—a patient listener—a good reasoner—an industrious student—and a kind hearted and courteous man.

If the laws are salutary and wise, and such judges fill the bench and administer them, a violater of justice has not the least apology for his offence. He must be a bad citizen indeed, who would contemn the authority of a court, over

which such a judge presided; and all citizens are wanting in duty, who suffer any other to get upon the bench.

From the necessity of the case, courts must be allowed to exercise *discretionary power;* and this may be perverted to unjust or tyrannical purposes.

The great security of the people against judicial oppression, is in the integrity and humanity of the judges. True, the power of the judges can be, and is, limited by law; but that same law gives them the *power of decision;* and tyranny may be cloaked under the pretence of judgment.

For instance.—The judge has the same passions and emotions as other men. He has power to punish contempts of court, happening in his presence. The law authorizes him to fine and imprison for the insolent and disorderly behaviour of parties, counsel and others.

Now suppose, counsel in the firm and manly discharge of their duty to their client, should offend the pride, or awaken the angry passions of a judge. Under the influence of wounded pride, or aroused anger, it is quite probable that his justice and impartiality would not be so great, as if no wild emotion disturbed the equanimity of his mind. And it is also quite probable, as the supposed insult or contempt was somewhat personal toward the judge himself, he would forget that it was not himself, but the majesty of the law, that required vindication at his hands, and he might be unjust or vindictive in his decision, and improperly inflict fine and imprisonment upon a fellow citizen.

The citizen is bound to respect the law, and to yield obedience to the decisions of the courts. But in order to do this conscientiously, it is his duty, in the first place, to effect wise legislation, and in the next, to adorn the bench of the country with the highest accomplishments of learning, and the noblest endowments of talent and virtue.

This can be best done, by selecting judges from the *whole body* of citizens, rather than from any one political party. By diminishing the number from among whom the selection

is to be made, the chance of success is also lessened. If but one branch of the community, amounting to but a little more than one half of the people, is to be selected from, the prospect of making the best choice is diminished nearly one half.

Besides—the judicial station ought not to be subjected to party influence. It claims the respect and obedience of the whole people—it emanates from and is created for the benefit of the whole—it should be worthy of universal confidence. All parties should meet on neutral ground, when they approach the tribunals of justice. A party zealot ought not to be placed in judgment over the people.

A citizen may rightfully question the validity of any particular law. This implies no disrespect of the laws in general. Nay more—a people jealous of their liberties *ought* to bring their laws to the test of the constitution. So that, in any case, if a citizen believes he ought not to acquiesce in any statute or law, as passed or expounded, he may question its obligation.

But he cannot do this by forcible resistance. He must bring the question of the binding force of the law, before the judicial tribunals of the country. The courts must decide upon the validity of all laws, and if they are pronounced obligatory by the courts, it is the duty of the citizen to acquiesce in the decision. All resistance must end here. The court of last resort having settled the question, the citizen must yield a cheerful obedience. Without such obedience on the part of the people, all government must end. There must be a point where the citizen's right to question the validity of a law ceases;—and that point, is the decision of the court of last resort.

This tribunal is constituted by the people, for this express purpose—and thus the great arbiter of the citizen's own choice and appointment determines his case. He violates the social compact, if he fails to acquiesce in the decision.

The citizen is often called to serve as a juror. This may

inconvenience his business, and occasion him pecuniary loss. But this cannot be serious, and should not induce him to avoid his duty of serving on juries.

So long as our courts proceed with trial by jury, every intelligent citizen has thrown upon him, a high and important trust. The duty of a juror is of the most sacred character. He becomes one of the ministers of the law.—An arbiter of justice, between man and man. The lives, fortunes, and reputations of his fellow citizens, are committed to his most sacred care. The efficiency of the law, and the integrity of its administration, depend upon the faithful discharge of the juror's duty.

He ought not to shun responsibilty in this respect. The public have a deep interest in securing the service of their most upright, and enlightened citizens in this behalf. But such find themselves oppressed with a thousand private cares —yet none of greater importance to themselves, or the State than this. They themselves, may be drawn into litigation in our courts. They then require the service of an enlightened and upright jury. They then at once, perceive its importance, its absolute necessity, to the due administration of public justice. They ought not to require of others what they themselves, have refused to perform. And if they, when called to serve on juries, have avoided doing so, and permitted other suitors to become the victims of ignorance and prejudice in the jury box—when they are at their need in this respect, they may expect to be abandoned to a like fate.

A proper respect for the laws and the integrity of their administration, will induce every citizen promptly to discharge his duty as a juror.

3. The citizen is required to act with *fidelity, uprightness, and intelligence in the exercise of the elective franchise.*

1. Herein lies the great conservative action of the people, in the preservation of our institutions. The power of voting is the great moral lever by which the machinery of govern-

ment is to be moved. The republic is to be preserved or sacrificed by the votes of the citizens.

There can be no political good, but the people's vote may establish—no political evil, but it may correct. It is a power which is not enjoyed to its full extent by any other people. It is the most sacred right and highest privilege of freemen. Human liberty cannot be preserved without its full and upright exercise. There is no other peaceful manner in which public sentiment can be brought to bear upon the administration of government.

A people may be never so enlightened and virtuous—yet, if deprived of the power of controlling public affairs by their votes, their high intelligence, and moral excellence, will fail to influence the affairs of State. The power of voting upon all questions of public concern, is in its very nature, the power of governing. It is the great attribute of a republican form of government—the dearest privilege man can enjoy in society.

It is feared, that the long enjoyment of this great privilege by our people, has rendered its exercise so familiar, that its value is not fully appreciated by all of them.

Already, men have to be urged to go to the polls to deposite their vote. We hear of various wrongs which might be corrected, if the whole people would take an interest in our elections.

How can the citizen be indifferent to the welfare of his country? Its well-being is his own, on a larger scale. Can his prosperity survive that of the republic? Suppose that he neglects to vote, because he is absorbed in the acquisition of wealth. What protection has property but the law? Where is his safety under anarchy? His true interest as an individual, is in every respect promoted by a thorough discharge of his duty at the polls. An enlightened selfishness alone, ought to prompt him to exercise this high privilege, even if the nobler motive of subserving the interests of humanity do not impel him to action.

Let then this privilege be properly appreciated—and the duty of voting be ever promptly and manfully discharged by every citizen.

2. His next great duty in this respect is *to preserve the purity of elections.*

The sacred privilege of the elector may be prostituted to evil purposes, and when party feeling rages, we have often occasion to lament the depravity of political leaders, and their vile efforts to employ the ballot box as an instrument of evil. Laws have been passed to defeat these efforts. Just penalties are inflicted upon all offenders against the purity of elections. But in order to render these laws effective, the public sentiment must sustain them.

The laws of themselves, will prove abortive, without being seconded by the citizen. The people must execute the intention of the laws spontaneously and from the heart. They must indignantly frown upon the motto of the demagogue that "all is fair in politics."—They must hold to the truth, that a knave in politics, is a knave in private life. The same radical moral defects, that lead to a fraud upon a people's liberties and welfare, will also induce acts of injustice and wrong in the private affairs of men. He who is unfair as a politician, is unworthy of confidence in society. He who is dishonest as a statesman, will cheat as a man. Nothing is more certain than these conclusions. A greater moral defect cannot exist in the mind of any man, than is betrayed by an open contempt of the sacred privileges of the voter. Is he who cheats me of my political rights, a worthier knave than he who defrauds me out of my estate? Are my rights as a citizen, less sacred, than my rights as a man. Can money purchase liberty, or secure to me good government? Let me lose my property, but preserve to me my liberties. I can be happy without my estate, but cannot be happy without my liberties.

Let him who would defraud me of the latter, be branded as a political felon. Set upon him the mark of public re-

probation. Let the righteous indignation of a virtuous and injured people be brought to bear upon his remaining sense of shame. He cannot endure the universal scorn of his fellow citizens. The demagogue will falter in his career of fraud—he will relax his mischievous efforts, and sink away into merited contempt and obscurity.

The polls of an election properly conducted, present the grandest moral spectacle, which can greet the eye of the philanthropist. There is a high degree of moral grandeur and sublimity about it. The majesty of the law, and the liberties of the people, are here vindicated and upheld.

The greatness of the occasion ought to preclude all degrading efforts calculated to advance mere factious interests, or private gain. The majesty of the people ought to overawe the vicious, and rebuke the reckless. The moral power here exhibited ought to preclude all lawless force and violence. Passion should be hushed, selfishness struck dumb, and fraud rebuked—for here come the people in their majesty to vindicate their rights, redress their grievances, and to uphold the sacred institutions of the country.

The frequent recurrence of this great action of the people should not detract from its interest or dignity. If it is the greatest good to be free, it is the greatest wisdom to preserve that freedom. The safety of the republic depends upon the purity of its elections.

What then is the rule of political rectitude in respect to elections? I answer—to conduct them in a peaceful manner, and with the same spirit of integrity, and with the same intelligence, as govern the upright and enlightened citizen in the discharge of his most important duties in private life.

To require less than this, would be to waive that for the protection of the greatest interests, which we require to secure the less. To ask less, would be to sanction knavery in the mass, while we condemn it in detail—to submit to

an outrage upon the rights of the community, while we punish an injury to the rights of an individual.

There cannot exist two codes of morals, one for political, and another for private life. The same sentiment of justice which sways a man in the transactions of business, controls his action upon the theatre of public affairs. If its manifestations are necessary to the safe conduct of business, they are also necessary in the discharge of the duties of citizenship. If honesty "is the best policy" for a man individually, it is also the best for men collectively.

The American people ought not to draw their examples in this respect from practices under the political institutions of the old world.

Those governments are founded in fraud, in a denial of man's natural rights, in a deprivation of his liberties. Having their inception in wrong, it is probable that fraud is necessary to their continuance. Wrong lies at the foundation, and it is to be expected that it should be continued in the superstructure. A people consenting to be cheated out of their rights by the very constitution of their goverment, may be expected to be duped, during its administration. So that the arts and practices of the Rulers of Europe are ill adpated to the institutions of this country.

Right and justice are the basis of our constitution—these must be employed in rearing and sustaining the superstructure of our Government. A republican government cannot be sustained where ignorance is general, or corruption prevails.

Imbued with this sentiment the citizen approaches the polls of an election. He has examined each question involved by his vote—he deposits it. If he were an honest man when he left his home, he returns to it an honest man. No shameful rumor of his fraud or violence follows him to the threshold of that home. No just indignation awaits him, when he again appears among his fellow citi-

zens. His presence is again welcome at the polls. It is good for the republic that he should come there.

Suppose a party to carry an election by violence or fraud —the leaders of that party may ensure to themselves for a limited period, office or emolument. They have defrauded their opponents—they have employed arts by which a wrong principle has been sanctioned—or an improper individual has been elevated to office. They have triumphed—but over whom and what? They have triumphed over *themselves, and over right and justice.* Have they gained any thing? Their gain is small and temporary—their loss great and permanent. They have gained no more than the thief who steals his neighbors property, and forfeits both reputation and liberty for his offence.

What arrays political parties in opposition to each other? There can be but one legitimate cause of division—and that is, *an honest difference of opinion upon matters of political concern.*

Men's minds are differently constituted: they are not expected to agree in every thing. They are required to act from the *same motive,* to wit—a desire to serve the public interest, but they cannot be expected to agree, always as to the *mode,* of accomplishing the greatest good to the state.

How is this difference to be settled? By candid examination and temperate discussion of the question in dispute—by an upright judgment formed in the mind of each voter, upon which he bases his vote. All this is the business of reason—not of passion. The higher nature of man is here called into exercise, to wit—his reasoning faculties and his moral sentiments. No brute force can be profitably employed in this business. The entire animal can be dispensed with. Neither the voice nor fist require to be elevated. The public interest can be vindicated without public abuse —the public morals can be preserved without gross immorality. The press need not state any falshoods—nor make any

unworthy appeals to the base passions of the ignorant. There need be nothing said about rich and poor—the conversation had better be concerning the good and bad—the right and the wrong. We need no large types and inflammatory handbills—no slander nor libels—no effigies nor processions—no drums nor fifes. The business of reason can be very well conducted without any such aids. A man can think and decide correctly, without this mode of intellectual quickening.

Appeals by the public press to passion and prejudice ought to be discountenanced. Newspapers ought not to be encouraged, the integrity of whose conduct cannot be relied upon. The press is a great moral engine: it should be wrested from unworthy hands. Public virtue must restrain its abuse.

An enlightened and virtuous people will not tolerate a press which abuses its freedom by degenerating into licentiousness.

The press is free—it can endure no censorship but that of enlightened public sentiment. Restrained by this it will minister to the public virtue—and wield its immense power in elevating the condition, and promoting the happiness of the human race.

If a people justly complain of the corruption of the press, what is this but evidence, that there is an appetite for evil in the community, to which the press ministers? Let the appetite be corrected, and a licentious press will cease. Destroy the demand in the public mind for the false and impure essays of the press, and they will not be produced for market.

A correct people will have a correct press. An intelligent people an enlightened one—and the reverse. May the American people never have occasion to utter the complaint, that by guaranteeing the liberty of the press, they lost their own!

3. In conclusion, it seems proper to speak of the impor-

tance of requiring *the highest moral and intellectual qualities in those who are to be promoted to official stations.*

These are too often overlooked. Moral endowments are not required, to the extent that the public interest demands. There may be too great an admiration of what is called *talent*—and too much confidence may be based upon it. Great intellectual power is necessary to perform the duties of high official station; but this alone is not enough. "With the talents of an angel" a man may be wanting in respect to the moral sentiments. Where this is the case, intellectual power may become an instrument of evil. High capacity for the public service, may be perverted to answer the purpose of private ambition, or undue gain.

The higher sentiments must control the man—they are supreme—and intellect without their healthy impulse and direction is as likely to be active for evil as for good.

No man can be said to be truly great, who is not characterized by moral excellence. Our moral, is our higher nature, to which all our faculties ought to be brought into subservience.

If intellect subserves the baser passions of our nature alone, it may make us great—but great in evil only. Our moral sentiments are the means by which we approach to sympathy with the Divine Nature. These alone warrant the declaration that "man was created in the image of his maker." It is by these that the Divine justice and beneficence are appreciated by man—and the want of these, deprives him of all that is most ennobling in human nature.

Man is chiefly distinguished from the brute creation by his moral attributes. So far as he is deficient in these, he approaches to the level of the lower animals.

Let then this higher nature of man be regarded according to its importance, whenever the question of election, or appointment to office shall arise. Let us see that the candidate for the people's favor and confidence comes up to the proper standard of high moral endowment. Let us look to

this first, and to his intellectual qualities, or his talents afterwards. If deficient in this great point, we will enquire no further, but reject his claims.

The judicious and enlightened, have long since determined, that Napoleon was by no means as great as Washington, and yet the former possessed more of what is called talent than the latter. But Washington commanded a reverence to which Napoleon was a stranger. The greatness of the one was based upon his moral, and that of the other upon his intellectual, character. Washington's intellectual endowments were sufficient for any position, in which he was placed during his long and eventful public life. But the moral nature of Napoleon was so deficient, that it reacted upon himself—and after sacrificing the lives and happiness of millions of the human family, he died the prisoner of nations; a great offender, against whom humanity cried out, and whom justice and even mercy condemned. The interests of the whole human race were promoted by the free and spontaneous action of Washington—while the happiness of the world required that Napoleon should be restrained. How great the contrast! It is, however, but a fair example of the superior excellence of the moral, over the merely intellectual nature of man.

A Republic requires the high moral action, not only of the people themselves, but of all whom they promote to official station.

But the moral attributes of the candidate for office, are not alone to be considered—his mental qualities, and acquirements are next to be tested. "Is he capable?" is the next question to be solved—He is to be elevated above his fellow citizens—is he the man for the place in view? What are his talents—his attainments?

The republic suffers by the appointment of middling men to office. Their official labors are neither well nor promptly performed. As well legislative, as executive, and judicial action, require well endowed and highly cultivated minds.

A second rate man will not answer the demands of the community. If you place in the executive chair, a man of feeble, or only ordinary intellect, he will conceive nothing for the advancement of the public interest—he will be controlled by narrow views and prejudices—his administration, will be a blank, in the history of the State.

If you place a second rate man upon the bench, his work will not be done—and what he accomplishes, will be ill done. The wheels of justice will be clogged—he may work with the feeble capacity he possesses—but he will never finish. The calendar of causes will not diminish—Justice will be delayed—which is an evil next to its denial —or he will decide, and neither party will entertain the respect for his judgment, which is justly due to the decisions of a court of justice.

If you fill the halls of the legislature, with men at mediocrity, you may expect absurd legislation—an ignorance of the law, and a want of capacity for legislation. They must understand the theory, and spirit of the constitution, and the laws of the land, who undertake the business of Legislation.

The course of the Republic will soon be finished, if the people neglect to scrutinize the qualifications of their public officers.

We have seen that it is a high moral duty, for a people, not only to adopt a proper form of government, but so to conduct under it, as to carry out its design.

In discharging the latter branch of this duty, the elector must enquire in respect to each candidate for office—"Is he capable, is he honest, is he faithful to the constitution?" If the elector judge aright, in these respects, the republic will be safe.

How exalted then, is the position of every American citizen! How great his responsibility! How noble his task!

The happiness of millions of his own countrymen—the inheritance by posterity of political liberty, and the hopes

of mankind at large, are based and centered, upon the success of our grand experiment in self-government.

The oppressed of all nations, are looking to our example, with the hope of ultimate deliverance. They seek an asylum upon our shores—and take shelter under our tree of liberty.—We shall be false to ourselves—to truth—to freedom and humanity, if we falter in our high career, or fail to establish—*the divine right of the people to govern themselves.*

QUESTIONS ON POLITICAL ETHICS.

SEC. I. AND II.

What distinguishes man from other creatures?
Why do men live in society, and how is it composed?
What do you understand of natural liberty?
How are the actions of men in society restrained?
Is government necessary to the happiness of mankind?
To what do man's chief moral duties relate?
How is man's duty in reference to government divided?
From what ought government to be free?
What is said of the liberty of speech?
Can a man be held responsible for the abuse of this liberty?
Has man a natural right to acquire and hold property?
How far can government interfere with this right?
What is said of the sentiment of religion?
Do men differ in their modes of manifesting it?
Has government a right to establish any religion?
Can government give any preference to one form of religion over another?
Can religious worship be forbidden by law?
Is society endangered by perfect freedom of religion?
What restraints can government impose upon the citizen?
What is tyranny?
Are the good and enlightened subject to any restraint under government, which their own natures did not previously impose upon them?
What is said of the expenses of government?
What is said concerning wars, and of avoiding them?

Ought government to confide in the integrity and capacity of the people?
For whose benefit do most governments appear to be constituted?
What is the duty of the subjects of such governments?
What is said of partial privileges, and arbitrary titles and distinctions?
What ought to be our guide in the constitution of government?
What form of government secures to all equal rights, privileges, and protection?

Sec. III.

How far has the constitution of our government reposed confidence in the integrity, intelligence, and vigilance of each citizen?
Who is unqualified to discharge his duties as a citizen?
What is expected of each citizen?
Has each citizen a right to demand that any other shall do his duty?
Can any properly refuse?
What does each citizen by consenting to live under our government, undertake?
What is said of the duty of a citizen, in reference to health?
What is said of moral and intellectual culture?
Ought each citizen to have an occupation—and for what reasons
What is said of marriage?
Ought every citizen to attend to the mental culture, and moral training of his children?
Where is this duty first to be discharged?
What is said of public ignorance and depravity?
Is education of more importance under our form of government, than under any other?
What ought the parent to devote to the cause of education?
What reflections are given upon this subject?
What results from a due appreciation of the citizen's duty, upon the subject of education?
What species of knowledge is peculiarly necessary for the young American?
What effect has the vote of an ignorant and reckless citizen?
What is said respecting female education?

3. *Upon the Social Bearing and Conduct of the Citizen.*

What is said of kingly governments?
What characterises the frame of our political institutions?
What effect ought our institutions to have upon the manners of the people?
Ought we to practice republicanism, and where?
What is said of simplicity? of foreign manners?
What course ought a wealthy citizen to pursue in society?
Is the possession of wealth, an index of merit?
What estimate ought society to place upon the mechanic?
Ought any distinction to be made in society, on account of a man's pursuit?
Has nature ordained industry?
What is the common acceptation of "*well born?*"
Who is in fact well born?
Are the qualities of parents likely to be transmitted to their offspring?
What is said of a good parentage?
What does the spirit of our institutions dictate in regard to our social intercourse?
Has government guaranteed perfect freedom of opinion?
May not men in their social intercourse defeat this freedom?
May tyranny exist, without authority of law?
What is said of social persecution, for opinion's sake?
Is the evil the same, whether a citizen is persecuted by law, or by public sentiment?
Ought citizens to see that no one suffers for opinion's sake?
How can a due degree of liberality on this subject be attained?
By what standard ought society to test the merits of men?
What is said of religious toleration?
What spirit ought to prevail among political opponents?
What distinctions are allowable in society?
What constitutes human excellence?

4. *Duties more strictly of a Political Character.*

Ought the citizen to respect and reverence the constitution?
How will this respect be evidenced?
What is said of the danger of executive usurpation?
What is the citizen's duty, in reference to the legislative department?

Ought the citizen to obey the laws of the country?
Whence do laws emanate—and for whose benefit are they made?
Who makes, amends, or abolishes laws?
While laws exist, what is the citizens duty?
May a citizen ever do violence in self-redress?
Suppose his case is not provided for by law, what shall he do?
Suppose there are abuses in society, how are they to be corrected?
Is mob force ever justifiable? Is there any apology for it?
What remarks are made upon the subject of mobs?
What is the object of establishing courts of justice?
What is committed to their protection?
Ought the citizen to respect the station of judge?
What enables him to do this?
What is the citizen's duty in regard to appointment of judges?
From what class of men ought a judge to be selected?
What ought to be his qualifications?
May not the discretionary power of judges be abused?
What security is there from this abuse?
What case is stated, by way of illustrating judicial tyranny?
How ought the bench of the country to be adorned?
Ought judges to be appointed from one party, or from the whole body of citizens?
What is the effect of diminishing the number of persons from whom the selections are to be made?
Ought the judical station, to be freed from party influence, and why?
Ought a party zealot to be appointed judge?
May a citizen question the validity of any law?
What is said of a citizen's duty in this respect?
May a citizen resist the execution of a law by force?
How is the validity of laws to be determined?
At what point does the citizen's right of questioning the validity of a law cease?
What is said of serving on juries?

5. *The exercise of the Elective Franchise.*

Of what importance is the right of voting?
Can human liberty be preserved without it?
What is the power of voting, in its very nature?
Is its importance fully appreciated by all?
What general observations are made on this subject?
What is said of the corrupt exercise of the elective franchise?

Have the laws provided against it?
How can these laws be rendered effectual?
What opinion ought the community to hold respecting the corrupt elector?
Ought a corrupt politician to be regarded as a corrupt man?
What remarks are made upon a well conducted election?
How much depends upon the purity of elections?
What is the rule of political rectitude in respect to elections?
What remarks are made in illustration of this rule?
Why ought not practises indulged under the institutions of the old world to be followed by us?
With what sentiments ought an elector to go to the polls?
Who is welcome there?
What does a party gain, by carrying an election by fraud?
What is the legitimate cause of division between political parties?
Are citizens required to act from the same motive—and what is it?
How are differences of opinion to be settled?
What remarks are made upon this subject?
What improper practises to influence votes are pointed out?
What is said of the public press and newspapers?
How is the abuse of the press to be restrained?
What are the advantages of a well-conducted press?
Suppose the press to be corrupt, of what is this evidence?
What remarks are made upon the importance of high moral and intellectual qualities in public officers?
May a man possess great talents, and still be unfit for office?
Who is truly great?
What is said of man's moral nature, in comparison with his intellectual?
What contrast is presented between the character of Washington and Napoleon?
What is the effect of appointing middling men to office?
Suppose a second rate man to be elevated to the executive chair? to the bench? or to the halls of legislation? what will be the effect in each case?
What should be the enquiry of the elector in reference to the candidate for office?

APPENDIX.

There are important relations, duties, and rights, pertaining to individuals as members of society, which are necessary to be understood and observed, and without an acquaintance with which a man is ill prepared to enter upon his duties, and discharge his obligations as a member of civil society. A few leading subjects of this nature I propose to treat under the following heads, to wit:—Husband and Wife; Parent and Child; Master and Servant; Guardian and Ward; Wills; Executors and Administrators; Petit jurors; Witnesses, and Arbitration.

OF HUSBAND AND WIFE.

Of Marriage. Marriage, in the view of the law, is regarded only as a civil contract; and in order to the validity and legal consummation of a marriage, it is necessary that the parties should be *willing* to contract; *capable* in law of contracting; and that they actually *do* contract in the form required by law.

Who may marry. All persons are in law capable of contracting marriage, with the exception of those who labor under certain incapacities and disabilities.

Persons within certain degrees of consanguinity, or relation by blood, are prohibited by law from contracting marriage; and all marriages within these degrees are in-

cestuous, and absolutely void. These are marriages between parents and children, including grand parents, and grand children of every degree, and between brothers and sisters of the half as well as the whole blood; and such marriages are of no sort of legal validity, and do not require the proceeding of any court to declare their nullity.

The marriage contract of persons laboring under other disabilities is void; as where a person marries during the life time of a former husband or wife. In this case the marriage is wholly void, without the intervention of any court, unless the marriage with the former husband or wife has been annulled, (for some other cause than the adultery of the person marrying,) or the former husband or wife has been finally sentenced to imprisonment for life.

But where a person whose husband or wife has been absent for five successive years, without being known to such person to be living, marries during the life time of the absent husband or wife, the marriage is void only from the time it is declared to be so by a competent court.

Persons marrying, who are prohibited from it by reason of being within the degrees of consanguinity above mentioned, are guilty of *incest*, and upon being convicted, may be imprisoned in a state prison not exceeding ten years: also persons having a former husband or wife living, (except under the exceptions enumerated by law,) who marry, are guilty of *bigamy*, and upon being convicted, may be punished by imprisonment in a state prison not exceeding five years.

There are other cases in which the chancellor may declare void the marriage contract, for causes existing at the time of the marriage; and in these cases the marriage is void from the time it is so declared.

1. Where the parties or one of them had not attained the age of legal consent at the time of the marriage.

This proceeds upon the ground of the imbecility of judgment in the parties, and the law presumes the absence of

consent, where in all probability the minds of the parties are not sufficiently mature to be capable of yielding a rational assent to the contract.

The age of legal consent to a marriage contract was, by the revised statutes, fixed at seventeen years in the male, and fourteen in the female; but this law has been subsequently repealed, and this leaves the age of legal consent to the determination of the common law, by which males under the age of *fourteen*, and females under *twelve*, are incapable of entering into the married state.

The proceeding to annul a marriage on the ground that one of the parties was under the age of legal consent, may be instituted and carried on by the parent or guardian entitled to the custody of the minor; but such a marriage cannot be annulled on the application of the party who was of legal age at the time it was contracted; nor can it be annulled where the parties, after the age of consent, have freely cohabited as husband and wife.

2. Where the former husband or wife of one of the parties was living, and the marriage with such former husband or wife was then in force.

In this case the chancellor may annul the marriage on the application of either of the parties during the life time of the other, or upon the application of the former husband or wife. But when the subsequent marriage has been contracted in good faith, and with the full belief of the parties that the former husband or wife was dead, the issue of the marriage born or begotten before its nullity is declared, are entitled to the same rights of inheritance as legitimate children.

3. Where one of the parties was an idiot or lunatic.

Lunatics within the sense here used, are all persons of unsound minds, other than idiots.

In case a marriage is sought to be annulled on the ground of the idiocy of one of the parties, it may be declared void on the application of any relative of the idiot, interested to

avoid the marriage, at any time during the life of either of the parties. In the case of lunacy, the marriage may be declared void at any time during the continuance of the lunacy, or after the death of the lunatic in that state, during the life time of the other party, and upon the application of any relative of the lunatic interested, to avoid the marriage. The marriage of a lunatic may also be declared void upon his own application after he is restored to reason; but not where the parties freely cohabited as husband and wife after the lunatic was restored. The children of a marriage annulled for idiocy or lunacy, are entitled to the same rights of inheritance as legitimate children.

4. Where the consent of one of the parties was obtained by force or fraud.

Such a marriage may be annulled during the life time of either of the parties, on the application of the party whose consent was so obtained, or of the parent or guardian of such person, or of some relative interested to contest the validity of the marriage. But a marriage cannot be annulled for this reason, if the parties before the commencement of the suit, voluntarily cohabited as husband and wife.

5. Where one of the parties was physically incapable of entering into the married state.

A suit to annul a marriage for this cause can only be brought by the injured party against the other, and this within two years from the time of the marriage.

Solemnization of marriage. By the revised statues, marriages for the purpose of being registered and authenticated according to the provisions of them, are required to be solemnized in a particular manner there pointed out; the details of which are too extensive to be embraced in this work; but the forms there prescribed are not necessary to be pursued, except for the purpose of securing more authentic evidence of the fact of marriage, than the generality of persons are careful about. The persons authorized to solemnize marriages according to these provisions are, ministers

of the gospel of every denomination; mayors, recorders, and aldermen of cities; judges of the county courts, and justices of the peace.

Marriages are, however, equally valid in law, which are not formally solemnized, and all that is required, is that the parties capable in law of contracting marriage, solemnly contract to enter into a state of matrimony, and actually enter upon that state in pursuance of their agreement, in order to give it binding effect and validity.

Effect of marriage. By marriage the husband and wife become, in law, one person; the husband retaining all his original rights, but in this situation acquiring new ones, and incurring additional liabilities, and the wife in a great degree surrendering to the husband her former rights, and in this new situation acquiring others, which are regarded of more intrinsic value.

The husband is entitled, absolutely, to all the personal property belonging to the wife, and to the enjoyment, use, and profits of her real estate during her life, and in most cases of survivorship during his own. He is bound to provide necessaries for his wife, and if he neglects to do so, he is liable for her debts contracted for them, and he is liable for the debts of his wife contracted before marriage, and this, whether she bring him property or not; but these, in general, must be enforced during coverture.

If a wife is injured in person or character, she must join with her husband in bringing an action; and for wrongs committed by her, she must be sued jointly with her husband.

In criminal cases, this is, however, different, and the husband or wife, for their individual offences, are indicted and punished separately. They cannot in any case be witnesses for or against each other.

The wife by the marriage not only acquires a perfect right to the support, defence, and protection of her husband, but after his death, she is entitled to a share in the distribu-

tion of his personal estate, and to be endowed of one third of all the lands whereof her husband was seised of an estate of inheritance during the marriage. In case, however, of a divorce, by which the marriage contract has been dissolved for the misconduct of the wife, she is not entitled to dower; nor is she entitled to dower, where in lieu of it a jointure has been settled upon her by her husband, and she has accepted it.

"By the *old law*, a husband might give his wife moderate correction; for as he has to answer for her misbehavior, the law thought it reasonable to entrust him with this power of restraining her, by domestic chastisement, in the same moderation that a man is allowed to correct his apprentices or children, for whom the master or parent is also liable in some cases to answer. But this power of correction was confined within reasonable bounds."

This may be regarded as a statement by the eminent author of what the law *was*, and as a summary of the *best* reasons which he could assign for the existence of it; and it is evident the whole is a relic of barbarism, proceeding upon the presumed superiority of the husband, and regarding the station and condition of the wife as a menial or servant, under the entire control and tyranny of the husband. The rules of law being adapted to the feelings and condition of a people by whom they are adopted, and partaking of the disposition and habits, the sentiments and impressions of the age in which they originate, it is not at all surprising that at a time when the character and station of woman in society was degraded throughout Europe, that doctrines of this sort might prevail, and indeed, become the law of the land. But since woman has at length attained her proper station in society, and is acknowledged man's companion and equal, there is no doubt but with us the law has already partaken of a more refined and enlightened view of this matter, and deprived the civilized husband of the ferocious privilege enjoyed by his barbarian ancestors. And

indeed, the writer from whom we quoted above, goes on to observe that "in the *polite* reign of Charles the Second this power of correction began to be doubted; and a wife may now have security of the peace against her husband, or in return, the husband against his wife;" yet he says "the *lower rank* of people who were always fond of the old common law, still claim and exert their ancient privilege."

Of divorce. Divorces are of two kinds, total and partial; the one from the bonds of matrimony, and the other from bed and board only.

1. The court of chancery may decree a divorce, and dissolve a marriage, whenever adultery has been committed by a husband or wife, within the jurisdiction and power of the court as defined by law; and the bill for a divorce may be exhibited by the wife in her own name, as well as by the husband.

When the marriage is dissolved upon the complaint of the wife, the court may compel the husband to provide for the maintenance of the children of the marriage, and also to provide a suitable allowance to the wife for her support, having regard to the circumstances of the respective parties. And in this case also, the wife is entitled to all her real estate and personal property. But where the marriage is dissolved upon the complaint of the husband, he is entitled to the enjoyment of the property of the wife owned by her at the time of the decree, to the same extent as if the marriage had continued.

When a marriage is dissolved for the cause before mentioned, the party complaining is at liberty to marry again during the life time of the other party, but the party complained against is not allowed to marry again until the death of the complainant.

2. The court of chancery may decree a separation from bed and board for ever, or for a limited time, on the complaint of a married woman for certain causes to be set forth particularly in the bill of complaint. These causes are the

cruel and inhuman treatment by the husband of his wife, or such conduct on the part of the husband toward his wife, as may render it unsafe or improper for her to cohabit with him, or the abandonment of the wife by the husband, and his refusal or neglect to provide for her.

In a suit for a divorce for any of these causes, the husband is permitted to show the ill conduct of the wife, and if he establish his defence to the satisfaction of the court, the bill will be dismissed.

A decree for a separation in any of these cases may be revoked at any time after it is pronounced by the court that made it, upon the joint application of the parties, and upon their producing satisfactory evidence of their reconciliation.

QUESTIONS ON THE PRECEDING.

What is necessary to the validity of a marriage?
What relatives are prohibited from marriage?
Can a person marry during the life time of a former husband or wife?
What exceptions are there?
Who are guilty of *incest?*
What is the punishment of incest?
Who are guilty of *bigamy*, and what is its punishment?
In what cases may the chancellor declare marriages void?
What is the age of legal consent to a marriage?
By whom may marriages be solemnized?
What rights does the husband acquire by marriage?
What liabilities does the husband incur by marriage?
Is the husband liable for wrongs committed by his wife?
In criminal cases is the husband liable for his wife's offences?
Can the husband and wife be witnesses for or against each other?
What rights does the wife acquire by marriage?
Can a husband lawfully chastise his wife?
What observations are made on this subject?
How many kinds of divorces are there?
By what court are divorces decreed?
In what cases may the bonds of matrimony be dissolved?
In what cases may partial divorces be decreed?

OF PARENT AND CHILD.

Parents are bound by law to provide for the maintenance of their legitimate children. (See overseers of the poor.)

They are also bound in duty to *protect* them, and so far has the law favoured the natural impulse of a parent to afford this protection, that he may uphold his children in law suits without being guilty of an offence, and may justify an assault and battery in defence of the person of a child.

But the most important duty of parents, is to *educate* their children, and to bestow such care and expense for this purpose, as are suited to the ability of the parents, and the condition of their family in society. Parents who have neglected the education of their children, have in effect but perpetuated their own disgrace, and injured the society of which they are members.

Their children can feel under but little obligation to them for their rude and uncultivated state of existence, and should they be found wanting in gratitude and obedience, the fault is in the main attributable to the parents, through whose criminal neglect it has originated.

The *power* of a father over his child ceases when the child attains the age of twenty-one years, but before that period he may lawfully correct his child, so that he do it in a reasonable manner, and for sufficient cause. The father also has the like power over his child's estate as a trustee or guardian, and is in like manner accountable, and he is entitled to the services of his children during their minority; he may, however, set his child at liberty, and give his consent to his acting for himself, in which case the father is not entitled to the earnings or the property of the child. A father may, by his deed or last will, appoint guardians for his infant children, and during his life he may delegate a portion of his parental authority to the school master or tutor of his child, who in such case may exercise such power

of correction and restraint as may be necessary in the situation in which he is placed.

When a husband and wife live in a state of separation, without being divorced, if they have a minor child of the marriage, the wife may apply to the supreme court for a *habeas corpus* to have the child brought before it, and the court on proper consideration may award that the mother have the care and custody of the child, for such period, and under such regulations, restrictions, and provisions, as the case requires.

The chancellor, a justice of the supreme court, or circuit judge, has the like power to award the like writ for the purpose of bringing before him a child whose father or mother has joined the society of shakers, and to award the charge and custody of the child to the parent who has not joined the shakers.

"The *duties of children* to their parents arise from a principle of natural justice and retribution. For to those who gave us existence, we naturally owe subjection and obedience during our minority, and honor and reverence ever after: they who protected the weakness of our infancy, are entitled to our protection in the infirmity of their age; they who by sustenance and education have enabled their offspring to prosper, ought in return to be supported by that offspring, in case they stand in need of assistance. Upon this principle proceed all the duties of children to their parents, which are enjoined by positive laws."

QUESTIONS ON THE PRECEDING.

What are the duties of parents to their children?
Which is their most important duty?
What power has a father over his children?
At what age does the power of the parent cease?
What power has a father over his child's estate?
Is he entitled to his child's services?
How can a father appoint a guardian for his child?

To whom may a father's authority be in part delegated?
Suppose husband and wife separate without being divorced?
Suppose a husband or wife join the shakers?
What are the duties of children to their parents?

OF MASTER AND SERVANT.

Menial servants, or domestics, become so by the contract of hiring, and serve according to their contract. These are a part of the family of the master, and reside at his dwelling, their business being of a domestic nature.

Labourers are employed by the month, week, or day; and do not become, by the contract of hiring, necessarily, a part of the family of the master.

These two species of servants are entitled to wages, according to their contract; but in order to be so entitled there must be a performance of the contract on their part—a fulfilment of it, in regard to the term and manner of service, as agreed upon.

Another species of servants has arisen from the former existence of slavery in this State, and from statutory provisions in regard to slaves and their offspring.

By this statute it is provided that every child born in this state previous to the 31st day of March 1817, of a person then held in slavery here, shall remain a *servant* of the person who owned the mother of such child, and of the personal representatives and assigns of such owner, as if such child had been bound to service by the overseers of the poor of any city or town; and that the child continue in such service until the age of twenty-eight years if a male, and until the age of twenty-five years if a female.

Every such child born between the 31st of March, 1817, and the 4th day of July, 1827, remains in like manner a servant until the age of twenty-one years.

A person entitled to the services of a child in either of

the above cases, is required to teach the child to read and write, or to furnish at least two years schooling; and if this is neglected, the child on attaining the age of eighteen years may be released from service. Such a child cannot be held to service after the age of eighteen years, unless within one year after birth, the person then claiming the services of the child shall have filed in the office of the clerk of the city or town where he resides, an affidavit containing the name and addition of the master, and the name, age, and sex of the child.

Every person born since the 4th day of July, 1799, and brought into this State as a slave before the 31st day of March, 1817, by a person coming to reside permanently here, is free; but such person remains a servant of the emigrant and of his personal representatives, if a male, until the age of twenty-eight years, and if a female, until the age of twenty-five years, in the same manner as if bound to service, in the manner directed by law, by the overseers of the poor of a town.

But such person is entitled to be released from service, at the age of eighteen years, unless the emigrant, within six months after arriving in this State, shall have filed with the clerk of the city or town where he then resided, his affidavit containing his name and addition, and the name, age, and sex of the person whose services are claimed. And such servant is also entitled to be released from service at the age of twenty-one years, unless the emigrant, or his personal representatives, shall have used all reasonable means to teach such person to read, and shall also have furnished him with one year's schooling.

Apprentices are another species of servants, who are bound to service, by indentures, for a term of years, and receive from their masters, instruction in a particular trade or occupation, and protection, maintenance, and education, during their term of service, according to their indentures.

Males under twenty-one years, and unmarried females

under the age of eighteen years, may, of their own free will, and with the consent of certain persons authorized by law, bind themselves, in writing, to serve as clerks, apprentices, or servants, in any profession, trade, or employment. Males are bound in this manner until the age of twenty-one years, and females until the age of eighteen years, or for a shorter term.

This contract of service is as binding and effectual, as if the infant was of full age at the time of making it.

The *consent* required to be given by the persons authorized, must be signified in writing, by a certificate at the end of, or endorsed upon, the indentures; and this is the only mode in which such consent can be given.

This consent must be given by the *father;* but if he be dead, or not legally qualified, or has abandoned his family, then by the *mother.* If the mother be dead, or not of legal capacity, or refuse, then, it may be given by the *guardian* of the infant, properly appointed. If there be no parent, or none qualified, and no guardian, the *overseers of the poor*, or any *two justices* of the peace of the town, or *any judge* of the county courts of the county where the infant resides, are authorized to give their consent to the binding. So also *executors* of the last will of a father, who are directed in the will to bring up his child to some trade or calling, may bind the child to service as a clerk, or apprentice, in the same manner as the father could have done if living.

County superintendents of the poor, and *overseers of the poor*, are authorized in certain cases to bind out children as apprentices.

The *age* of every person bound to service as an apprentice, should be inserted in the indenture—and when so inserted, it is taken to be the true age without further proof. Indentures which are not made in the manner prescribed by law, are not valid as against the apprentice.

If an apprentice, lawfully bound to service, wilfully absents himself without his master's consent, he may be compelled

to serve double the time of such absence, unless he otherwise makes satisfaction for the loss and injury sustained by the master in consequence. But this additional term of service cannot extend beyond three years after the end of the original term.

A justice of the peace, upon application of the master, may cause an apprentice who refuses to serve according to his indentures, to be arrested and brought before him, and if the refusal is still persisted in, he may commit the apprentice to the bridewell, house of correction, or common jail of the city or county, where the parties reside, there to remain until he will consent to serve according to law.

There are other provisions made by statute, by which any misdemeanor or ill behavior of an apprentice, is punishable upon complaint of the master; and by which also the master may be discharged from all obligations to the apprentice.

So also an apprentice may be discharged from his indentures, upon complaint to the proper authority, in case his master is guilty of any cruelty, or misusage, toward him, or refuses necessary provisions or clothing, or in any other manner violates the provisions of the law, or the terms of the indenture.

A master may bring an action against a man for beating or injuring his apprentice or servant, by which he loses his service, however slight the loss may be: and he may justify an assault and battery in defence of his servant; and so may a servant in defence of his master.

If your servant leaves your employment, and goes into the service of another, you may have an action for the damage against the servant, and also against the new master, provided he knew the servant to be yours; and he is at all events liable, if he refuses to restore him, or keeps him in his employment, after information and demand. In the case of an apprentice who leaves his master's service, the

person employing him is liable to the master for damage, whether he knew him to be an apprentice or not.

If a servant, while in the business of his master, does damage to another, through negligence or unskilfulness, the master is liable. As if a smith's servant in shoeing a horse, lame him, the master is answerable. But a master is not liable for the trespasses of a servant, done out of his employment and without his authority, nor for injuries arising from the servant's wilful misconduct.

A master may lawfully correct his apprentice for negligence, or other misbehavior, so that it be done with moderation, but he cannot correct a servant of full age.

QUESTIONS ON THE PRECEDING.

Who are *menial servants?*
How are *laborers* employed?
Are these servants entitled to wages?
Suppose they do not perform their contract?
What are the provisions of our statues, in regard to the children of slaves?
Who are apprentices?
To what age may males be bound by indenture?
To what age may females be bound?
Is this contract of service binding upon an infant?
Whose consent is necessary to the binding of an apprentice
How is this consent signified?
Suppose the father of the indented apprentice be dead?
Suppose he has no parent nor guardian?
In what case may executors bind out children?
Suppose an apprentice absent himself without his master's consent?
Suppose he refuse to serve according to his indentures?
Is an apprentice punishable for misconduct?
In what case may an apprentice be discharged from his indentures?
What remedy has a master for an injury to his servant?
May a master defend his servant, and how far?
What remedy has a master, if a servant leaves him and serves another?

Suppose an *apprentice* leaves his master's service, is his employer liable without notice?

For what damages done by a servant, is the master liable?

Can a master lawfully correct any servant?

OF GUARDIAN AND WARD.

The relation of guardian and ward, nearly resembles that of parent and child, and it happens upon the death of the father; the guardian taking his place as a temporary parent during the child's minority.

There are three kinds of guardians known to the common law—viz. *Guardians by nature, by nurture, and in soccage.*

Guardianship by nature, extends to the care and custody of the *person* of the child, and of his estate, while under age. The guardian in this case is the father, and in case of his death the mother succeeds him.

Guardianship by nurture, extends only to young children under the age of fourteen years, who are not heirs apparent, and consequently cannot exist in this State, when all children may alike inherit the property of their parents.

Guardianship in soccage, by the common law, continues only until the child is fourteen years of age; and the guardian in this instance, is some relation of the ward by blood, who cannot inherit the ward's estate; hence this species of guardianship is of rare occurrence; and is essentially superseded by the practise of appointing guardians by the court of chancery, and by the surrogates of the respective counties of this State.

Testamentary guardians are created by the deed or last will of the father, and they supersede the claims of all others. This species of guardianship is created by statute, but is not in very common use; but wherever it exists it extends as well to the tuition as to the custody of the real

and personal estate of the ward, and continues while the child is under age, or for any shorter period, according to the appointment of the father. The guardian, in this case, may maintain actions for injuries done to the person or property of the ward, and he has the management of his personal property, and of the profits of his real estate.

The chancellor has a general jurisdiction over the persons and estate of minors, and he may appoint guardians for all fatherless children. The guardian appointed by the court of chancery, continues until the ward attains the age of twenty-one years unless sooner removed; and one person may be appointed guardian of the *person*, and another guardian of the *estate* of the infant. Guardians of the estate of infants, appointed by the chancellor, are required to give adequate security for the performance of their trust, and they have the care of the rents and profits arising from the estate of their wards, and may lease their lands, &c. during their minority, but cannot sell them without the authority of the court of chancery.

The surrogate of each county, (when there is no testamentary guardian,) is authorized by statue, to allow guardians chosen by minors who are of the age of fourteen years, and upwards, and to appoint guardians for such as are within that age, on the proper application of a relative or friend of such minors; and for the purpose of inquiring into the circumstances of an infant, in order to the appointment of a guardian, he may compel the attendance of any person to testify before him. The guardian appointed for an infant, at fourteen years of age, or upwards, if not removed, continues until the ward attain the age of twenty-one years; and the guardian appointed for an infant under fourteen years of age, is accountable and responsible, as such, until another guardian is appointed, or he is discharged according to law.

Before the appointment of a guardian by the surrogate, he requires the person to be appointed, to enter into a bond

to the minor, with sufficient surety in the penalty of double the value of the minor's personal estate, and of the value of the rents and profits of the real estate, with a condition that the guardian will faithfully in all things discharge his duty to the minor, and that he will render a just and true account of his trusts, in all respects, to the proper tribunal, when required. This bond is retained by the surrogate, and is subject to be prosecuted for any breach of its conditions.

The court of chancery may remove any guardian, however appointed, for misconduct, or incompetency. Also, the surrogate, upon proper application, and for the like causes, may remove any guardian appointed by him, and upon such removal, a new guardian is appointed, by the power making the removal, in the same manner as if no former appointment had been made.

A guardian ad litem, is one who is appointed for an infant where he is made *defendant* in a suit; and he has no other powers than are necessary to a proper defence of the infant in the suit for which he is appointed. After process has issued in such a suit, it cannot be further prosecuted, until this guardian be appointed.

This guardian is not liable for the costs of the suit, unless the court charge him with them, for some personal misconduct.

A next friend, is some competent and responsible person, who is appointed for an infant to appear for him, and conduct a suit in which he is *plaintiff;* and he is responsible for the costs of such suit.

This appointment is made upon the petition of the infant, and the written consent of the person to be appointed; and he may be required to enter into a bond with surety, to account to the infant for all the monies which may be recovered in the suit.

It is the duty of every guardian to take charge of, and protect, the real and personal property of his ward—and at

the expiration of his trust, to deliver the same to him in as good order as it came to his hands, a just allowance being made for inevitable decay and injury. The situation of a guardian is one of *trust* and *duty*, and not one from which he can derive a *benefit;* and where he settles the debts of his ward upon beneficial terms, or for a less sum than the amount, the ward is entitled to the whole benefit derived therefrom. The guardian should put the money of his ward out at interest, and in case he neglects to do so without sufficient reason, he is liable for his default, and he is also liable for any damage the property of the ward sustains from his mismanagement. In general, he should sell the personal property of the ward, and after paying the debts, should place the balance out at interest—for the reason that the ward's debts increase by the accumulation of interest, while such property usually diminishes in value.

A guardian cannot invest personal property in lands, nor change real property into personal, without the authority of the court of chancery.

If a guardian makes, or suffers any waste, sale, or destruction of his ward's inheritance, he loses the custody of the ward and his estate, and is liable to pay to the ward thrice the sum at which the damages shall be assessed by a jury.

A guardian may be compelled *to account*, before his ward attains the age of twenty-one years, for good cause shown; and when the ward attains that age, he can compel him to account without showing any cause; and upon such accounting, guardians are allowed to charge for their reasonable expenses, and as a compensation for their services, a certain percentage fixed by law on sums of money received and paid out by them.

Minors, or persons under the age of twenty-one years, in contemplation of law, are incapable of taking care of themselves, and hence upon the demise of the father, the necessity of the relation of guardian. Upon the principle that

minors are not capable of acting for themselves, it is that contracts made by them are not binding if they refuse to abide by them; and if a minor deed away his estate, or do any other act to the injury of his property, he may avoid and rescind such acts when he attains full age. The object of this law is to protect infants from the results of their indiscretion—it is to be regarded as a shield for their protection—but as has been well observed, ought not to be used by them as a sword, in a defence against a just and honest contract.

Minors may, however, bind themselves by contracts for the necessaries of life, such as food, medical aid, necessary clothing and apparel, and for profitable instruction.

We have seen that minors above a certain age, are capable of contracting marriage; and such marriage more or less affects the rights of the guardian; as where a female ward marries, the guardianship as to her *person* is at an end —but it seems that as to her property the guardianship is not determined—but may be by the special order of the court of chancery.

The marriage of a male ward does not affect the relation between his guardian and him.

QUESTIONS ON THE PRECEDING.

What is the relation of guardian and ward?
How many species of guardian at common law?
Who is guardian by natur ?
How are testamentary guardians created?
How extensive is this guardianship, and its powers?
What power has the chancellor over fatherless children?
How long do guardians, appointed by the chancellor, continue?
What security do these guardians give?
What power have these guardians?
Can the surrogate appoint guardians?
At what age can a minor choose a guardian?
How are guardians appointed for children under fourteen years of age?

How long does the *chosen* guardian continue ?
How long does the guardian *appointed* continue ?
What security is required of these guardians ?
Who retains the guardian's bond—and when may he be prosecuted ?
By what power, and for what cause, may guardians be removed ?
What takes place upon such removal ?
Who is a *guardian ad litem ?*
What are the powers and liabilities of this guardian ?
Who is a "next friend ?"
How is he appointed, and what are his liabilities ?
Can you enumerate the duties of general guardians ?
Suppose a guardian suffers or commits a waste ?
Can guardians be compelled to account; if so, when ?
What charges are they allowed to make ?
Who are minors—and can they bind themselves by contract ?
What is the object of this law ?
By what contracts are minors bound ?
Suppose a female ward marries ?
Suppose a male ward marries ?

OF WILLS.

A will is the solemn declaration of the person making it, of what he desires should be performed in regard to his affairs and property after his death, and in order to its legal validity, he must not only be competent in law to make it, but in doing so must conform to the rules prescribed by the statute.

The person thus leaving a will, is called a *testator*, and a person dying without one is called an *intestate*.

A *legatee* is one to whom personal property or money is bequeathed or given by a will.

A *devisee* is one to whom lands or real estate, is devised or given by will.

Who can make a will. Every person may make a will, who does not labor under some legal prohibition or disability; as those wanting sufficient discretion, or who do not possess freedom of will.

Idiots, persons of unsound mind, and married women, are incapable of making a will; and *infants,* or persons under the age of twenty-one years, cannot devise *real property*—but males of the age of eighteen years, and unmarried females of the age of sixteen years or upwards, if of sound mind and memory, can dispose of their *personal estate* by will.

Mode of execution. Soldiers in actual service, and mariners while at sea, may make nuncupative or unwritten wills, bequeathing personal estate; but all other wills, must be in writing, and signed and executed in the manner prescribed by statute, viz:

The testator must subscribe his name at the end of the will, and this in the presence of at least two attesting witnesses, or he must acknowledge the subscription of his name to each of the witnesses. When the testator so subscribes or acknowledges his will, he must declare it to be his last will and testament, to the witnesses, and request them to witness it. Each witness must sign his name as such at the end of the will, in pursuance of the testator's request; this being done, the will is valid so far as regards the manner of execution. The witnesses, however, are required to do more: 1. To write opposite their names their respective places of residence—and 2. The person who signs the testator's name to a will by his direction, must subscribe his *own name* as a witness to the will, and a person neglecting either of these provisions, forfeits $50, but the validity of the will is not impaired by this omission.

A codicil is a written supplement or addition to the will of a testator, and is annexed to, and taken as, a part of it. It is designed for an explanation or alteration of the will, or to add to or subtract from it; it can be made only by persons capable, in law, of making a will, and must be executed in the same manner and with the like formalities.

Of revocation. The will of an unmarried woman is revoked by her subsequent marriage, and there are other cases

of implied revocation from the happening of certain events after the execution of the will. But in general, a will cannot be revoked or altered, except by some other will or writing, in which such revocation is declared, and which is executed with the same formalities as the first will; or unless the will be burnt, torn, cancelled, obliterated, or destroyed, by the testator himself, or by some one under his direction, for the express purpose of revoking and annulling it. When the will is burnt, or otherwise cancelled as above, by a person in behalf of the testator, the testator's consent and direction must be proved by at least two witnesses.

In case a person dies *without a will, or intestate*, his estate descends to his *heirs*, who are those entitled by law, to the estate upon the death of the ancestor, and this estate is called an *inheritance*.

QUESTIONS ON THE PRECEDING.

What is a will?
What is the person leaving a will, called?
What is the person dying without one, called?
Who is a *legatee?*
Who is a devisee?
What person is capable of making a will?
At what age can persons dispose of personal property by will?
In what cases are unwritten wills valid?
How are written wills executed?
What are the witnesses required to do?
What is a codicil?
Who may make a codicil, and how is it executed?
What revokes the will of an unmarried woman?
How may wills in general be revoked, altered, and cancelled?
Suppose a person destroys a will at the testator's request, how many witnesses are required?
Who are heirs?
What is their estate called?

OF EXECUTORS AND ADMINISTRATORS.

These are individuals appointed to settle the estates of deceased persons.

Who may be executors, &c. No person can be an executor or administrator, who is incapable in law of making a contract, or who is under the age of twenty-one years, or who has been convicted of an infamous crime, or who is an alien not residing in this state. All other persons may be executors and administrators.

How appointed. Executors are nominated by the last will of the testator, and if competent, are afterwards appointed by the surrogate of the county, by letters testamentary. In cases where no executors are named in the will, or where the executors named refuse to act, or are incompetent, the surrogate of the county appoints persons to settle the estate, and these are called *administrators with the will annexed.*

Where a person dies without a will, the surrogate appoints *administrators.* In cases of wills affecting real estate only, the executors are appointed by the will, and no letters testamentary are necessary.

Order of appointment. The persons entitled to administration upon the estates of deceased persons, have preference in the following order: first, the widow; second, the children; third, the father; fourth the brothers; fifth, the sisters; sixth, the grandchildren; seventh, any other next of kin who would be entitled to a share in the distribution of the estate; eighth, creditors; and if there be none of these, or they all refuse, then the county treasurer, and in the city of New York the public administrator, who is an officer appointed by law, for that purpose.

In case of the death of a wife leaving property, the husband is first entitled; and in all cases where there are several persons of the same degree and so equally entitled, then, first, males are preferred to females; second, relatives of the

whole blood to those of half blood; third, unmarried women to such as are married; and where a married woman is entitled, letters may be granted to her husband in her right. Where there are several persons equally entitled, the surrogate, in his discretion, appoints those he deems most competent and suitable; and where the person having the prior right is a minor the guardian of such minor has the preference in his place.

In case any person applies to the surrogate to be appointed administrator, who has not the first right, all persons having a prior right, are to be first cited to appear and show cause before the surrogate, why the person applying should not be appointed; and then, if after due notice no objection nor prior claim is made, the person so applying obtains the appointment.

All administrators must file with the surrogate, a bond, with two sureties for the faithful performance of their duties.

Their powers and duties. Most men are overtaken by death unprepared for it, even in relation to their affairs in this life, and many go out of the world, leaving their business, debts, and credits, wholly unsettled; dropping from life in the midst of their active pursuits, and leaving their plans but half executed.

The object of the law, in appointing executors and administrators, is, to finish and perfect the business of the deceased, and as it were, to supply his place, until his affairs are settled, his debts paid, and the property which he accumulated, distributed among those who are by law entitled to receive it.

The first duty of an executor or administrator, after his appointment, is to procure from the surrogate, the appointment of two disinterested persons, to appraise the personal property of deceased; he then gives five days notice of the time and place of appraisal, to the legatees and persons next of kin in the county, and likewise posts the same for the

same time, in three of the most public places in the town. At the time appointed, he goes with the appraisers and shows them the property, which they appraise item by item, and an inventory is made, and the prices carried out, and the appraisers appointment and oath are annexed. The executor or administrator, makes and keeps a copy of the inventory, and the appraisers sign both the original and the copy. Within three months from the time of his appointment, the executor or administrator, must return and file the inventory, and swear to the correctness of it, before the surrogate.

The inventory contains a true account of all the debts due to the deceased, and of the personal property of every kind belonging to him, together with all leases and terms in land for years or for life; and fixtures annexed to a freehold, or to the walls of buildings erected for trade or manufacture, and not so fixed as to be essential to the support of the walls, together with all growing crops and produce, except grass and fruit.

The law has, however, humanely provided that where a man dies, leaving a widow and minor children, they may keep for their own use, certain articles enumerated in the statute, which are most essential and useful for a family, and these articles, although set down upon the inventory, are not appraised, nor are they removed. All the other effects of the deceased, are taken by the executor or administrator, into his possession, and disposed of, usually, by public sale, after giving fair public notice.

If the property is sufficient to pay all the debts of the deceased, so that there is no risk of the executors or administrator's personal liability for any that may remain unpaid, he should proceed to pay them as fast as the proceeds of the estate are received; but if there be any doubt of the sufficiency of the estate to pay all the debts, he should as soon as six months from the time of his appointment have elaps-

ed, give public notice, once a week, for six months, by a notice in a newspaper printed in the county, (and in as many others as the surrogate shall direct,) requiring all the creditors of the estate to present their demands. After the expiration of this notice, which will be a year from the time letters were granted, the debts are to be paid in proportion to the amount due to each creditor, in the following order: first, all debts having a preference by the laws of the United States, and these are chiefly, if not wholly, debts due to the government of the United States; second, taxes assessed before the death of the deceased; third, judgments and decrees of courts; fourth, all other debts.

After all the debts are paid, the residue is to be distributed among the legatees, or persons entitled to a share in distribution; and when this is done, the duties of the executor or administrator are at an end.

QUESTIONS ON THE PRECEDING.

Who are executors and administrators?
Who may be executors and administrators?
How are executors nominated and appointed?
Suppose no executors are named in a will?
When are administrators appointed?
In what order are persons entitled to administration, appointed?
Who stand in the second order?
Who in the third?
Who in the next?
Suppose several persons are equally entitled?
Suppose a minor has the prior right?
Suppose a person applies to be appointed, who has not the first right?
What is the first duty of an executor or administrator?
By whom, and in what manner is the property of the deceased, appraised?
How is the inventory made?
What does the inventory contain?
What provisions has the law made in behalf of the widow and minor children?

How does an executor or administrator, proceed in the payment of debts?

In what order are debts paid, in case of a deficiency of property?

What is done after the debts are paid?

OF PETIT JURORS.

It is provided by the constitution of this State, that "*the trial by jury*, in all cases in which it has been heretofore used, shall remain inviolate forever."

This mode of trial is of very ancient origin—traces of it being found in the earliest history of England, as also of Germany, France, and Italy; and in these countries it has been deservedly esteemed "as a privilege of the most beneficial nature"—while with us it is regarded as an indispensible characteristic of a free government.

In our circuit courts, courts of oyer and terminer, courts of common pleas, and general sessions, all trials are had by jury.

Mode of selecting petit jurors. On the first Monday of July 1830, the supervisor, town clerk, and assessors of the several towns in this State, were required to assemble at such place in their respective towns, as should be appointed by the supervisor for the purpose of making lists of persons to serve as jurors. When assembled, they proceeded to select, from the names of those assessed on the last assessment rolls of the town, suitable persons to serve as jurors; to wit—male inhabitants of the town, not exempt from serving on juries, of the age of 21 years or upwards, but under the age of sixty years. The persons selected must also have been assessed in their own right for personal property belonging to them to the amount of $250, or have had a freehold estate in real property in the county, belonging to them in their own right or in the right of their wives to the value of $150. They must be in the possession of

their natural faculties, and not infirm or decrepit—free from all legal exceptions—of fair character—of approved integrity—of sound judgment, and well informed. These are the requisite qualifications for jurors in most of the counties in this State.

The officers before mentioned having made their selections, made out duplicate lists of the persons selected, with their additions and places of residence, and having signed the same, transmitted one to the county clerk, and filed the other with the clerk of the town.

On the first Monday of August, after the lists were so returned, the clerk of the county was required to write the names contained in the lists, with their additions and places of residence, on separate pieces of paper, and to deposite them in a box provided and kept for that purpose. The persons so returned were liable to serve as jurors for three years, and until other lists from their respective towns should be returned and filed.

On the first Monday of July, in every third year from the time of the first selection above mentioned, another selection is made by the same town officers, and by them in like manner returned; and upon receiving the new lists, the county clerk on the first Monday of August thereafter, writes the names of the jurors on separate pieces of paper, and deposits them in the box, first destroying all the old ballots in the box.

Drawing and summoning jurors. Fourteen days before the holding of the court for which jurors are to be drawn, the clerk of the county draws from the box in which the ballots are deposited, the names of thirty-six persons to serve as jurors; notice of which drawing is required to be given at least six day previous thereto, by publishing it in a newspaper of the county if there be one. A copy of this notice is also served on the sheriff of the county, and upon one of the judges of the county courts, three days previous to the time appointed for drawing, and it then becomes their duty

to attend at the clerk's office of the county and to witness the drawing of the jury. In case the sheriff or judge does not attend, the clerk adjourns the drawing until the next day, and by a written notice requires the delinquent sheriff or judge, or some other county judge, or any two justices of the peace of the county, to attend the drawing on the adjourned day.

On the day appointed, or to which the drawing has been adjourned, the clerk proceeds in the presence of the officers appearing to draw the jury. A minute of the drawing is signed by the clerk and attending officers, and filed in the clerk's office—and a list of the persons so drawn, with their additions and places of residence, and specifying for what court they are drawn, is made and certified by the clerk and the attending officers, and delivered to the sheriff of the county.

It then becomes the duty of the sheriff to summon the persons named in this list to attend the court for which they were drawn, by giving personal notice to each person, or by leaving a written notice at his place of residence with some person of proper age, at least six days previous to the sitting of the court. He returns the list to the court at the opening thereof, and in his return specifies those who were summoned, and the manner of doing the same.

Penalty for non attendance. The court may impose a fine not exceeding twenty-five dollars, for each day that any juror duly summoned, neglects to attend, without reasonable cause. But if the defaulting juror was notified by a written notice left at his residence, the court must suspend the fine until the juror shall be notified, and an opportunity given him of being heard in excuse of his default.

Discharging jurors. The court are required to *discharge* any person from serving on a jury in each of the following cases :—

When it satisfactorily appears to the court that the juror

is not possessed of the real or personal property necessary to qualify him as a juror, as has been stated before:

When such person is under 21 years of age, or over 60 years of age, or is not in possession of any of his rational faculties:

When there is any legal exception against such person.

The court must also discharge any person, who claims to be exempt from serving on juries by reason of being a non-commissioned officer, musician, or private, of any uniformed company or troop, and is duly equipped and uniformed. Such a person must present to the court a certificate of the commanding officer of the company or troop, which must state, that the person claiming to be exempt is a member of such company, and is duly equipped and uniformed, according to law. This certificate must be dated within three months of the time of presenting it, and the signature must be proved by oath.

The court must also discharge, any person who is a member of any company of firemen duly organized according to law;

Any person who is in the actual employment of any glass, cotton, linen, woolen, or iron manufacturing company by the year, month or season;

A superintendent, engineer, or collector of any canal authorised by the laws of this State, any portion of which is constructed and navigated;

A minister of the gospel, or teacher in any college or academy.

When a juror is discharged for any of these causes, the clerk destroys the ballot containing his name.

Excusing jurors. The court to which any juror is returned, are required to *excuse* him from serving at such court—when it appears; that he is a practising physician, and has patients requiring his attention, or,

That he is a surrogate or justice of the peace, or executes

any other civil office, the duties of which are at the time inconsistent with his attendance as a juror; or,

That he is a teacher in any school, actually employed and serving as such, or;

When for any other reason, the interests of the public or of the juror, will be materially injured by his attendance; or his own health, or that of any member of his family, requires his absence from court.

The name of the person *excused* is returned to the box from which it was taken.

Trial by jury. At the opening of any of the courts before mentioned, the clerk causes the names of the persons returned as jurors by the sheriff, with their respective additions and places of residence, to be written on distinct pieces of paper, and folds them up, each in the same manner, so as to resemble each other as much as possible, and deposits them in a box.

When a cause is brought on for trial, the clerk, under the direction of the court, openly draws out of this box, so many ballots containing the names of jurors, one after another, as will be sufficient to form a jury; and the *twelve* first persons who appear as their names are drawn and called, are sworn, and form *the jury* to try the cause.

The jury sit together in the presence of the court—hear the testimony as it is delivered by the witnesses—listen to the arguments of counsel for the respective parties to the cause—and after receiving *a charge*, or advice from the court in regard to the *law* of the case under consideration, retire under the care of a constable sworn to attend them, to deliberate upon their verdict. After mature consideration they return as a body into court, and are enquired of concerning their verdict. If they have agreed, the *foreman* (who is one of their number selected by them) states the finding of the jury verbally—or if in writing, he delivers it to the court—upon which it is recorded by the clerk.

If they have not agreed, and there is not a reasonable

prospect of their doing so, the court will discharge them from any further consideration of the case. A verdict cannot be received without the concurrence of every juror.

Misconduct of jurors. A person summoned as a juror in any court before mentioned, who improperly converses with any party to a suit to be tried at such court, or with any other persons in relation to the merits of such suit, or receives any communication relating thereto, without immediately disclosing the same to the court, is subject to be punished by fine and imprisonment or either, in the discretion of the court in which the suit is pending.

If a person drawn, summoned, or sworn as a juror in any case shall promise or agree to give a verdict for or against a person accused of any offence, or for or against a party to a civil suit; or shall receive any paper, evidence, or information from any one in relation to any matter or cause for the trial of which he shall be sworn, without the authority of the court or officer before whom such juror shall have been summoned, and without immediately disclosing the same to such court or officer, he shall upon conviction be adjudged guilty of a misdemeanor. The person so convicted may be punished by imprisonment in a county jail, not exceeding one year, or by a fine not exceeding $250, or by both such fine and imprisonment.

If a person drawn or summoned as a juror, takes any thing to give his verdict, or receives any gift or gratuity from any party to a suit, for the trial of which such person is drawn or summoned as a juror, he forfeits ten times as much as he has taken or received to the party in the suit aggrieved thereby; and is also in addition liable to the party injured for all the damages which he has sustained in consequence of this corrupt conduct.

It will be seen by these provisions of the statute regulating trials by jury, that the greatest care has been taken to preserve this mode of trial free from improper and corrupt influences.

The suitor ought always to be enabled to place the utmost confidence in the intelligence and integrity of a jury of his country, in whose hands his life, liberty, reputation and property, are not unfrequently placed, and from whom he has a right to expect a just and true verdict.

Causes are frequently brought to trial before a jury, which have been subjects of exciting interest in the community, and have undergone frequent and warm discussions in public places; but a juror should free his mind from the contagion of public rumor and scandal—and bring himself to know nothing of the matter in question, but what is delivered in testimony from witnesses of truth. This may be a difficult task, but one altogether necessary to a fair administration of justice. Shall a juror hear testimony in order to *change* his opinion? His business is to listen, for the purpose of *forming* one. All his views and impressions concerning the cause upon trial, should be derived from what transpires there in his hearing, under the solemn forms of the law, and never should he prejudge a cause.

The mind of the juror should be free from religious and political bias; he should have no creed, no politics, in the jury-box. The plaintiff may be of his religion—for that he is no better; the defendant may be of a different faith, and for that he is no worse. One party may have been his fast friend in politics—and the other his warmest opponent —still so far as the cause or trial is concerned, his friend may be in the wrong, and his opponent in the right; and if so, justice demands that he should so decide, without regard to religious or political associations, to feelings of friendship or antipathy.

The jury-box should be the seat of impartial justice.

It is the duty of the jury to adhere to the advice of the court in regard to any *questions of law* that may be presented in the case they are called to try; while of *the facts* of the case, they are the exclusive judges; and the advice of the court, that from the testimony, *the facts* are one way or

another, is altogether gratuitous, and ought not to affect their opinions in any way whatever. A party to a suit has a right by the laws of the country to the uninfluenced opinion of the jury upon the facts he presents to them, and the determination upon them, is within their exclusive province.

Some jurors, when they have differed as to the amount of their verdict, in order to arrive at some compromise of opinion, have each set down a sum—added the several sums together—divided the amount by the number of jurors, and adopted the quotient as their verdict. This course of conduct is highly censurable, and renders their verdict irregular and void.

QUESTIONS ON THE PRECEDING.

What is said of the origin of trials by jury?
In what courts are trials had by jury?
How are jurors selected?
What are the qualifications of jurors?
When, by whom, and how are jurors drawn?
By whom and how are jurors summoned?
What penalty may be inflicted for a juror's non attendance?
What persons must be discharged from serving on juries?
In what cases are persons excused from serving?
Can you rehearse the mode of trial by jury?
How many persons compose a jury?
By whom and how is the verdict delivered?
Suppose the jury cannot agree?
What conduct is declared criminal in a juror?
What punishment is prescribed for the respective cases?
Can you repeat the substance of a juror's duty?

OF WITNESSES.

These are persons legally called to testify and give evidence, before courts or persons authorized to hear and take testimony, in causes or proceeding before them.

The process, by which their attendance is compelled, is called a *subpœna*; and this may not only require the witness to appear at the court or place appointed, to testify what he knows of the cause or matter in controversy, but may also command him to produce any paper, or written evidence, that may be in his possession, or under his control; if the subpœna contains a clause to this effect, it is called a *subpœna duces tecum*.

Mode of service. In the higher courts, the service of a subpœna is made, by exhibiting to the witness the original writ of subpœna under the seal of the court issuing the same—and by delivering to the witness a copy of the writ, or *a ticket* containing its substance, and by paying to the witness the fees allowed him by law. In criminal cases, no fees need be tendered, as the witness is not entitled to any.

In cases where a judge or officer, is authorised to summon witnesses to appear before him to give testimony, or have their depositions taken, the summons is served in the same manner.

A subpœna from a justices court is served by reading it, or stating its contents to the witness, and paying or tendering the fees allowed by law for one day's attendance of the witness.

The service of a subpœna may be made by a sheriff, constable, or any other person: although it is desirable that the party interested in the attendance of a witness should employ some person to serve it for him, in order that he may be enabled to prove the service, in case he should resort to an action, against the witness for non-attendance.

Neglect to attend. A witness after being duly subpœnaed to attend any court, or to appear before referees, or certain officers authorized to receive testimony, who neglects or refuses to attend without a reasonable excuse, is guilty of a contempt of the court, out of which the subpœna issued; and for this the court may issue a process against him called *an attachment*, on which he will be brought into court to

answer for his default, and unless he excuses himself may be fined and imprisoned by the court.

A witness neglecting to appear without a reasonable excuse, is liable also to the aggrieved party for all loss and damage which he shall have sustained in consequence of the witness' neglect, besides forfeiting to the party aggrieved, the sum of $50.

In courts of justice of the peace, attachments may be issued against witnesses for neglect or refusal to attend without just cause. A witness, duly subpœnaed, who does not appear in these courts, or who, appearing, refuses to testify, without reasonable cause, forfeits to the use of the poor of the town, such fine (not less than sixty two cents, nor more than ten dollars) as the justice before whom a prosecution therefor is had, shall think reasonable to impose.

Who may be witnesses. A person cannot be a witness who is of unsound mind—or not in possession of his rational faculties—or who is of too tender an age to understand the nature and obligation of an oath—or who is in a state of intoxication—or who is interested in the event of the suit or matter concerning which he is called to testify. A husband cannot be a witness for or against his wife, nor a wife for or against her husband—but there is no other relationship which disqualifies a person from testifying. A person who has been sentenced to be punished by death, or to imprisonment in a state prison, is not a competent witness, unless he has been pardoned by the governor or legislature; and a person adjudged guilty of perjury cannot be a witness until the judgment against him is reversed.

As regards the religious belief of a witness it was formerly held in this state, that unless he believed in a future state of rewards and punishments, he could not be sworn. If this were ever considered the law of this state, by recent decisions of our courts it has been greatly modified—and finally, by the revised statutes it is provided, *that every person*

who believes in the existence of a supreme being, who will punish false swearing, may be sworn, if otherwise competent.

Oaths of witnesses. The import of the oath taken by a witness is, that what he testifies shall be *strictly true;* that it shall be the *whole truth* of the matter concerning which he speaks; and that he will not state *a falsehood.* He cannot therefore be guiltless in concealing any material fact within his knowledge, or in disguising, or misrepresenting it. He is solemnly pledged to the truth—he must be candid—and free from the influence of partiality to either party; and unless the testimony of the witness be delivered in this manner, he will be guilty of *perjury,* which is one of the vilest offences known to the law, and by which it is severely punishable.

Usually, when a witness is about to be sworn, he lays his right hand upon the gospels; the oath is then repeated to him by the officer, administering it, and at the conclusion the witness kisses the book. But if any witness desire it, this form may be dispensed with, and he may be sworn in this form—"you do swear in the presence of the ever Living God," &c.; and while swearing, the witness may or may not hold up his hand, in his discretion.

If a witness declares that he has conscientious scruples against taking an oath, or swearing in any form, he may make his solemn declaration, *or affirmation* in this form—"you do solemnly, sincerely, and truly, declare and affirm," &c.

If the court are satisfied that a witness has any peculiar mode of swearing connected with, or in addition to, the laying of his hand upon and kissing the gospels, which in the opinion of the witness is more solemn and obligatory, the court may in its discretion adopt such mode of swearing the witness. And a person believing in any other than the christian religion, must be sworn according to the peculiar ceremonies of his religion, if it has any, instead of any of the modes before mentioned.

Privileges of witnesses. Every person who is duly and in good faith subpœnaed as a witness to attend any court or officer, in any case where the attendance of a witness may be enforced by attachment or commitment, is exonerated from arrest in any civil suit while *going* to the place required by the subpœna, while *remaining* at such place and while *returning* therefrom; and if arrested under these circumstances he may be discharged from arrest. And the person making it is guilty of a contempt of the court issuing the subpœna—liable to the witness arrested for three times the amount of damage he sustains thereby—and also liable to an action at the suit of the party who subpœnaed the witness for the damage, hindrance, and loss, sustained by him in consequence of the arrest. But no officer or person is thus liable, unless the witness, if required by him shall make an affidavit, stating, that he has been legally subpœnaed as a witness to attend before some court or officer, specifying the court or officer, the place of attendance, and the cause in which he is subpœnaed, and that he has not been subpœnaed by his own procurement with intent to avoid the service of any process. This affidavit may be taken by the officer, and when taken exonerates him from all liability for not making the arrest.

Disabilities of certain witnesses. No counsel, attorney, o solicitor intrusted with the secrets or facts of a cause by the party himself, can be compelled or allowed to give evidence of conversations, matters of privacy or facts, which came to his knowledge in consequence of such trust or confidence. But he may be examined as to facts which have come to his knowledge from other sources and without being intrusted in the cause.

Ministers of the gospel, and priests of every denomination, are not allowed to disclose any confession, made to them in their professional character, in the course of discipline enjoined by the rules and practice of such denominations.

Nor is a person, authorised to practice physic or surgery,

allowed to disclose any information, which he may have acquired in attending any patient in his professional character, and which information was necessary to enable him to prescribe for such patient as a physician, or to do any act for him as a surgeon.

QUESTIONS ON THE PRECEDING.

Who are witnesses?
What is a subpœna—and its use?
How are subpœnas in the higher courts served?
How in justices' courts?
Suppose a witness neglects to attend?
Who may be witnesses?
What religious belief is necessary?
What is said of the oaths of witnesses?
How are oaths administered?
What are the privileges of witnesses?
What are the disabilities of certain witnesses?

OF ARBITRATION.

Arbitration, is where the parties to a controversy which might be the subject of an action at law, or a suit in equity, voluntarily submit the same to the decision of *one or more persons*. The persons to whom any such matter or controversy is submitted, are called *arbitrators;* and their decision is called an *award*.

What may be submitted, and by whom. No claims to an estate in fee, or for life, to real estate, can be submitted to arbitration. But claims to an interest for a term of years, or for one year or less, and controversies respecting the partition of lands, between joint tenants and tenants in common, and concerning the boundaries of land and the admeasurement of dower, and all other matters which might be

the subject of an action at law or a suit in equity may be submitted to arbitration.

All persons except infants, married women, and persons of unsound mind may submit to arbitration.

Mode of submission. This is done by an instrument in writing signed by the parties. In this submission the matter in dispute should be particularly specified—unless it is designed to submit all difficulties between the parties, when it should be so expressed. A day should be fixed in the submission, beyond which the award cannot be made.

Course of proceeding. The arbitrators appoint the time and place of hearing, and are at liberty to adjourn from time to time as may be necessary; and on the application of either party, for good cause, they may postpone the hearing to a time not extending beyond the day fixed for rendering their award.

Before they proceed to hear testimony, the arbitrators must be sworn faithfully and fairly to hear and examine the matters in controversy, and to make a just award, according to the best of their understanding. This oath and the oaths of witnesses examined before the arbitrators may be administered by a judge or justice of the peace. The attendance of witnesses before arbitrators may be compelled by subpœnas issued by any justice of the peace.

All the arbitrators must meet together and hear all the proofs and allegations of the parties; and when these are closed they proceed to make their award, which may be made by a majority of the arbitrators, unless the concurrence of all is expressly required by the submission.

The award, should be a fair and just determination of the matters submitted to the arbitrators; it should be made in writing, subscribed by them, and attested by a subscribing witness.

If it is agreed by the submission, that the judgment of a court may be rendered upon the award, the court into which the same is properly brought, may confirm the award, or

vacate, or modify it, according to the facts and circumstances of the case, and under certain rules and restrictions prescribed by law.

If by the terms of the submission such judgment is not to be rendered upon the award, the party in whose favor it is given, can resort to an action upon the award to enforce the performance of it.

The duties of arbitrators being important, and their decision frequently involving a large amount of property, the parties ought to select none other than men of intelligence and approved integrity.

Every person who attempts improperly to influence an arbitrator in relation to any cause or matter pending before him, upon conviction may be punished by imprisonment in a county jail not exceeding one year, or by a fine not exceeding $250, or by both such fine and imprisonment.

QUESTIONS ON THE PRECEDING.

What is arbitration ?
Who are arbitrators ?
What is their decision called ?
What may be submitted to arbitration ?
Who may submit to arbitration ?
How is the submission made ?
Who appoints the time and place of hearing ?
Can they adjourn ?
What is the oath of the arbitrators ?
By whom may they and the witnesses be sworn ?
How is the attendance of witnesses compelled ?
Must all the arbitrators meet and hear the proofs, &c. ?
How many must sign the award ?
How is the award made, and how attested ?
How may the award be enforced ?
Suppose a person attempts improperly to influence an arbitrator ?

DEFINITIONS OF THE WORDS AND PHRASES USED IN THE FOREGOING WORK.

A.

Action.—A demand of one's right in legal form in a tribunal of justice.

Affidavit.—A written statement of facts, sworn to before a proper officer.

Alien.—A person born in another country; a foreigner.

Alliance.—Between nations, an union and friendship contracted by treaty.

Ambassador.—The highest grade of public ministers; a person sent by one state or prince to the court of another, to transact the business of the court or state sending him.

Arrest.—In law, the seizing or taking the body of a person by virtue of a process authorising it.

Assault and battery.—An *assault*, is an attempt or offer to beat another without touching him; *battery* is the unlawful touching or beating of another.

B.

Ballot.—A ticket or written vote, upon which the persons and offices for which they are intended, are designated.

Bill of Indictment.—A written statement of facts which constitute an accusation of a crime or misdemeanor, and found by the grand jury to be true.

Body Corporate.—A corporation, or number of individuals having a

common interest, and transacting business pertaining thereto as an individual.

Bond.—A written and sealed obligation, by which a man binds himself and representatives to do, or abstain from doing, a particular thing; or to pay money, &c.

C.

Census.—An enumeration of the inhabitants, taken under the authority of government.

Citizen.—A person born within the United States, or who has become naturalized under their laws.

Common Law.—Law, distinguished from statute law, as *unwritten.* It receives it force and obligation from immemorial usage and common consent, and is declared in the decisions of our courts of justice.

Constitution.—Established rules and principles drawn up in writing, and adopted by a people or nation, for their government and regulation.

Consul.—"A person commissioned by a king or state to reside in a foreign country as an agent or representative, to protect the rights, commerce, merchants and seamen of the state, and to aid the government in commercial transactions with such foreign country."—*Webster.*

Contempt,—Of court; disturbance thereof—hindrance of the course of justice—disobedience of the rules and orders of a court; and is punishable by fine, and in some cases by fine and imprisonment.

Contract.—An agreement, induced by an adequate consideration to do, or abstain from doing, a particular thing.

Conviction.—The legal determination of the guilt of an accused person in a court of justice.

Costs.—The fees and expenses growing out of a suit in a court of justice.

Coverture.—The state of a married woman;—a woman under the legal control and protection of a husband is said to be under coverture, or a *feme-covert.*

Crime.—An atrocious offence committed in violation of a public law; such as murder, theft, perjury, &c.

Criminal Courts.—Courts in which offences are tried and punished.

D.

Deed.—As used in this work, signifies an instrument in writing under seal, whereby title to land is conveyed from one person to another.

Divorce.—A *total divorce*, is the dissolution of the bonds of marriage, and separation of husband and wife under the sentence of a court. A *partial divorce* is the separation of a married woman from her husband's bed and board under the same authority.

Dower.—The right of a wife to one third part of the lands of which her deceased husband was seized during his life; and of which she is entitled to the enjoyment during her life.

E.

Estate in Fee Simple.—In land, signifies an absolute and perpetual estate, free from restraint and condition, and is the highest interest in land which a person is capable of having.

Execution.—In law, is a process by which the judgment, or decree of a court is carried into effect; as in the taking and selling of property to satisfy a judgment.

F.

Felony.—Any offence, for which the offender is liable on conviction to be punished by death, or by imprisonment in a state prison.

Freehold Estate.—An Estate in real property of inheritance, or for life.

I.

Impeachment.—An accusation, brought against a public officer for mal-administration in his office.

Indenture.—A written contract; as used in this work, a contract in writing, by which an apprentice is bound to service.

Inhabitant.—One who has a fixed and settled residence in a place.

Inquisition.—The finding of a jury of inquest—a verdict upon an inquiry of damages,

J.

Jointure.—An estate in land, settled upon the wife by the husband, to take effect after his death, for the use and benefit of the wife during her life.

Judgment.—The legal determination and decision of a cause in a court of justice.

L.

Lease.—A letting of lands to another perpetually, for life, or for a term of years, or at will, for a rent reserved.

Libel.—"A malicious publication, expressed either in printing or writing, or by signs or pictures, tending to blacken the memory of one dead, or the reputation of one alive, and to expose him to public hatred, contempt, or ridicule."

M.

Misdemeanor.—An offence in violation of a public law, less atrocious than a crime—a smaller fault, and not punishable as a felony, but by fine, and imprisonment in a county jail.

Mortgage.—A conveyance of an estate in land, as security for a sum of money.

N.

Naturalization.—"The act of investing an alien with the rights and privileges of a citizen," so as to enable him to vote at elections, to hold real estate, &c.

New Trial.—In law, another trial, after a verdict once rendered in a cause has been set aside.

Nonsuit.—The default, neglect, or non-appearance of a plaintiff in a suit, by which his cause is discontinued.

P.

Pardon.—The remission and forgiveness of a crime, by which the convict may be restored from its consequences.

Partition.—Of land, in law, a proceeding by which persons owning lands in common, have assigned to each distinct portions of it, by the determination of the court.

Personal Property.—Articles which are moveable, and may be carried from place to place, and which are not attached to lands or buildings.

Petit Larceny.—The stealing, taking, and carrying away the personal property of another of the value of twenty-five dollars, or under.

Process.—The writ, or precept in a cause, civil or criminal, by which the proceedings therein are commenced, carried on and consummated. As the *capias* by which the body of the defendant is arrested to answer the complaint of the plaintiff; a *subpœna*, by which the attendance of witnesses is compelled to testify concerning the cause; and the *execution*, by which the final judgment in the cause is carried into effect.

Public Peace.—That state of tranquility and security which is guaranteed to the community collectively and individually, by the law of the land, to violate which, is a breach of the law.

R.

Real Estate.—An estate in lands, or a permanent interest in the soil, buildings, &c.

Republic.—"A state in which the exercise of the sovereign power is lodged in representatives, elected by the people."—*Webster.*

S.

Subpœna.—A writ or process of a court of justice, by which the attendance of witnesses to testify therein is compelled—*sub*, *pœna*, under a penalty.

Supersedeas.—A suspension, or taking away of the powers of an officer.

Statute.—A written law, enacted or passed by a legislature.

T.

Term.—Of courts, that portion of time during which they remain in session for the transaction of business.

Testimony.—The statement of a witness upon oath in a court of justice.

Treason—Against the United States, consists in levying war against them, or in adhering to their enemies, giving them aid and comfort. Treason against the State is defined by the Revised Satutes, Vol. II. p. 656.

Treaties.—Compacts or agreements made and entered into between sovereign states and nations.

Trial—Of a cause, proceeds by the examination of witnesses, the arguments of counsel, and ends in the verdict of a jury.

W.

Writ.—A legal process, authorizing and commanding certain acts incident to procedings in a court of justice.

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